98TH CONGRESS
*1st Session*

HOUSE OF REPRESENTATIVES

REPT. 98-30
Part 2

# RAILROAD RETIREMENT SOLVENCY ACT OF 1983

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## REPORT

OF THE

## COMMITTEE ON WAYS AND MEANS
## U.S. HOUSE OF REPRESENTATIVES

ON

## H.R. 1646

together with

## SUPPLEMENTAL VIEWS

JULY 1, 1983.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

# REPORT

together with

## SUPPLEMENTAL VIEWS

[To accompany H.R. 1646 which on February 24, 1983, was referred jointly to the Committee on Energy and Commerce and the Committee on Ways and Means]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 1646) to amend the Railroad Retirement Act of 1974 and the Railroad Retirement Tax Act to assure sufficient resources to pay current and future benefits under the Railroad Retirement Act of 1974, to make technical changes, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill as reprinted on June 1, 1983) are as follows:

*Amendment No. 1*

Page 13, strike out line 15 and all that follows through line 21 on page 26 and insert in lieu thereof the following:

## TITLE II—REVENUE PROVISIONS

**SEC. 201. SHORT TITLE.**

This title may be cited as the "Railroad Retirement Revenue Act of 1983".

# Subtitle A—Railroad Retirement Taxes

## PART I—INCREASE IN TIER 2 TAXES FOR PERIOD BEGINNING JULY 1, 1984, AND ENDING DECEMBER 31, 1984

**SEC. 211. INCREASE IN TIER 2 TAXES.**

(a) EMPLOYEE TAX.—Subsection (a) of section 3201 of the Internal Revenue Code of 1954 (relating to tax on employees) is amended by striking out "2.0 percent" and inserting in lieu thereof "2.75 percent".

(b) EMPLOYER TAX.—Subsection (a) of section 3221 of such Code (relating to tax on employers) is amended by striking out "11.75 percent" and inserting in lieu thereof "12.75 percent".

(c) EMPLOYEE REPRESENTATIVE TAX.—Subsection (a) of section 3211 of such Code (relating to tax on employee representatives) is amended by striking out "11.75 percent" and inserting in lieu thereof "12.75 percent".

(d) TECHNICAL AMENDMENT.—The last sentence of section 230(c) of the Social Security Act is amended by striking out "11.75 percent" and inserting in lieu thereof "12.75 percent".

**SEC. 212. EFFECTIVE DATE.**

The amendments made by this part shall apply to compensation paid for services rendered after June 30, 1984, and before January 1, 1985.

## PART II—OTHER CHANGES AFFECTING TIER 2 TAXES

**SEC. 221. INCREASES IN TIER 2 EMPLOYEE TAX; ANNUALIZATION OF TAX BASE.**

Section 3201 of the Internal Revenue Code of 1954 (relating to rate of tax on employees) is amended to read as follows:

**"SEC. 3201. RATE OF TAX.**

"(a) TIER 1 TAX.—In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to the following percentage of the compensation received during any calendar year by such employee for services rendered by such employee:

| "In the case of compensation received during: | The rate shall be: |
|---|---|
| 1985 | 7.05 |
| 1986 or 1987 | 7.15 |
| 1988 or 1989 | 7.51 |
| 1990 or thereafter | 7.65. |

"(b) TIER 2 TAX.—In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to the following percentage of the compensation received during any calendar year by such employee for services rendered by such employee:

| "In the case of compensation received during: | The rate shall be: |
|---|---|
| 1985 | 3.50 |
| 1986 or thereafter | 4.25. |

"(c) CROSS REFERENCE.—

"For application of different contribution bases with respect to the taxes imposed by subsections (a) and (b), see section 3231(e)(2)."

**SEC. 222. INCREASES IN TIER 2 EMPLOYER TAX: ANNUALIZATION OF TAX BASE.**

"(a) IN GENERAL.—Subsections (a) and (b) of section 3221 of the Internal Revenue Code of 1954 (relating to rate of tax on employers) are amended to read as follows:

"(a) TIER 1 TAX.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentage of compensation paid during any calendar year by such employer for services rendered to such employer:

| "In the case of compensation paid during: | The rate shall be: |
|---|---|
| 1985 | 7.05 |
| 1986 or 1987 | 7.15 |
| 1988 or 1989 | 7.51 |
| 1990 or thereafter | 7.65. |

"(b) TIER 2 TAX.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentage of compensation paid during any calendar year by such employer for services rendered to such employer:

| "In the case of compensation paid during: | The rate shall be: |
|---|---|
| 1985 | 13.75 |
| 1986 or thereafter | 14.75." |

(b) CROSS REFERENCE.—Section 3221 of such Code is amended by adding at the end thereof the following new subsection:

"(e) CROSS REFERENCE.—

"For application of different contribution bases with respect to the taxes imposed by subsections (a) and (b), see section 3231(e)(2)."

**SEC. 223. INCREASES IN TIER 2 EMPLOYEE REPRESENTATIVE TAX; ANNUALIZATION OF TAX BASE.**

Subsection (a) of section 3211 of the Internal Revenue Code of 1954 (relating to tax on employee representatives) is amended to read as follows:

"(a) IMPOSITION OF TAXES.—

"(1) TIER 1 TAX.—In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to the following percentage of the compensation received during any calendar year by such employee representative for services rendered by such employee representative:

| "In the case of compensation received during: | The rate shall be: |
|---|---|
| 1985 | 14.10 |
| 1986 or 1987 | 14.30 |
| 1988 or 1989 | 15.02 |
| 1990 or thereafter | 15.30. |

"(2) TIER 2 TAX.—In addition to other taxes, there is hereby imposed on the income of each employee representative a tax

equal to the following percentage of the compensation received during any calendar year by such employee representatives for services rendered by such employee representative:

| "In the case of compensation received during: | The rate shall be: |
|---|---|
| 1985 | 13.75 |
| 1986 or thereafter | 14.74. |

"(3) CROSS REFERENCE.—

"(For application of different contribution bases with respect to the taxes imposed by paragraphs (1) and (2), see section 3231(e)(2)."

**SEC. 224. TAXATION OF RAILROAD RETIREMENT BENEFITS OTHER THAN TIER 1 BENEFITS.**

(a) PENSION BENEFITS (OTHER THAN TIER 1 BENEFITS) TAXED AS BENEFITS RECEIVED UNDER EMPLOYER PLANS.—Section 72 of the Internal Revenue Code of 1954 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (r) as subsection (s) and by inserting after subsection (q) the following new subsection:

"(r) CERTAIN RAILROAD RETIREMENT BENEFITS TREATED AS RECEIVED UNDER EMPLOYER PLANS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any benefit provided under the Railroad Retirement Act of 1974 (other than a tier 1 railroad retirement benefit) shall be treated for purposes of this title as a benefit provided under an employer plan which meets the requirements of section 401(a).

"(2) TIER 2 TAXES TREATED AS CONTRIBUTIONS.—

"(A) IN GENERAL.—For purposes of paragraph (1)—

"(i) the tier 2 portion of the tax imposed by section 3201 (relating to tax on employees) shall be treated as an employee contribution,

"(ii) the tier 2 portion of the tax imposed by section 3211 (relating to tax on employee representatives) shall be treated as an employee contribution, and

"(iii) the tier 2 portion of the tax imposed by section 3221 (relating to tax on employers) shall be treated as an employer contribution.

"(B) TIER 2 PORTION.—For purposes of subparagraph (A)—

"(i) AFTER 1984.—With respect to compensation paid after 1984, the tier 2 portion shall be the taxes imposed by sections 2301(b), 3211(a)(2), and 3221(b).

"(ii) AFTER SEPTEMBER 30, 1981, AND BEFORE 1985.—With respect to compensation paid before 1985 for services rendered after September 30, 1981, the tier 2 portion shall be—

"(I) so much of the tax imposed by section 3201 as is determined at the 2 percent rate, and

"(II) so much of the taxes imposed by sections 3211 and 3221 as is determined at the 11.75 percent rate.

With respect to compensation paid for services rendered after June 30, 1984, and before 1985, subclause (I) shall be applied by substituting '2.75 percent' for '2 percent', and subclause (II) shall be applied by substituting '12.75 percent' for '11.75 percent'.

"(iii) BEFORE OCTOBER 1, 1982.—With respect to compensation paid for services rendered during any period before October 1, 1981, the tier 2 portion shall be the excess (if any) of—

"(I) the tax imposed for such period by section 3201, 3211, or 3221, as the case may be (other than any tax imposed with respect to man-hours), over

"(II) the tax which would have been imposed by such section for such period had the rates of the comparable taxes imposed by chapter 21 for such period applied under such section.

"(C) CONTRIBUTIONS NOT ALLOCABLE TO SUPPLEMENTAL ANNUITY OR WINDFALL BENEFITS.—For purposes of paragraph (1), no amount treated as an employee contribution under this paragraph shall be allocated to—

"(i) any supplemental annuity paid under section 2(b) of the Railroad Retirement Act of 1974, or

"(ii) any benefit paid under section 3(h), 4(e), or 4(h) of such Act.

"(3) TIER 1 RAILROAD RETIREMENT BENEFIT.—For purposes of paragraph (1), the term 'tier 1 railroad retirement benefit' has the meaning given such term by section 86(d)(4)."

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of such Code (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050G. RETURNS RELATING TO CERTAIN RAILROAD RETIREMENT BENEFITS.

"(a) IN GENERAL.—The Railroad Retirement Board shall make a return, according to the forms and regulations prescribed by the Secretary, setting forth—

"(1) the aggregate amount of benefits paid under the Railroad Retirement Act of 1974 (other than tier 1 railroad retirement benefits, as defined in section 86(d)(4)) to any individual during any calendar year,

"(2) the employee contributions (to the extent not previously taken into account under section 72(d)(1)) which are treated as having been paid for purposes of section 72(r),

"(3) the name and address of such individual, and

"(4) such other information as the Secretary may require.

"(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—The Railroad Retirement Board shall furnish to each individual whose name is set forth in the return under subsection (a) a written statement showing—

"(1) the aggregate amount of payments to such individual, and of employee contributions with respect thereto, as shown on such return, and

"(2) such other information as the Secretary may require.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was made."

(2) CLERICAL AMENDMENT.—The table of sections for such subpart B is amended by adding at the end thereof the following new item:

"Sec. 6050G. Returns relating to certain railroad retirement benefits."

(c) SECTION 72(r) REVENUE INCREASES TRANSFERRED TO CERTAIN RAILROAD ACCOUNTS.—

(1) IN GENERAL.—

(A) TRANSFERS TO RAILROAD RETIREMENT ACCOUNT.—There are hereby appropriated to the Railroad Retirement Account amounts equivalent to the aggregate increase in tax liabilities under chapter 1 of the Internal Revenue Code of 1954 which is attributable to the application of section 72(r) of the Internal Revenue Code of 1954 (as added by this Act) with respect to benefits received before October 1, 1988. The aggregate amount appropriated under the preceding sentence to the extent attributable to benefits other than windfall benefits shall not exceed $877,000,000.

(B) REVENUE INCREASES ATTRIBUTABLE TO WINDFALL BENEFITS RECEIVED AFTER SEPTEMBER 30, 1988, TRANSFERRED TO DUAL BENEFITS PAYMENTS ACCOUNT.—There are hereby appropriated to the Dual Benefits Payments Account amounts equivalent to the aggregate increase in tax liabilities under chapter 1 of such Code which is attributable to the application of section 72(r) of such Code (as added by this Act) with respect to windfall benefits received after September 30, 1988.

(C) WINDFALL BENEFITS DEFINED.—For purposes of this paragraph, the term 'windfall benefits' means any benefit paid under section 3(h), 4(e), or 4(h) of the Railroad Retirement Act of 1974.

(2) TRANSFERS.—The amounts appropriated by paragraph (1) shall be transferred from time to time (but not less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1). Any such quarterly payment shall be made on the first day of such quarter and shall take into account benefits estimated to be received during such quarter. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(3) REVENUE INCREASES FROM TAX ON SUPPLEMENTAL ANNUITIES NOT INCLUDED.—Paragraph (1) shall not apply to tax liabilities attributable to supplemental annuities paid under section 2(b) of the Railroad Retirement Act of 1974.

(d) OVERALL MINIMUM BENEFIT TREATED AS TIER 1 BENEFIT.—Paragraph (4) of section 86(d) of such Code (defining tier 1 railroad retirement benefit) is amended by inserting "3(f)(3)," after "3(a),".

SEC. 225. TECHNICAL AMENDMENTS.

(a) AMENDMENTS RELATING TO APPLICATION OF CONTRIBUTION BASE ON AN ANNUAL BASIS.—

(1) Paragraph (2) of section 3231(e) of the Internal Revenue Code of 1954 (defining compensation) is amended to read as follows:

"(2) APPLICATION OF CONTRIBUTION BASES.—

"(A) COMPENSATION IN EXCESS OF APPLICABLE BASE EXCLUDED.—

"(i) IN GENERAL.—The term 'compensation' does not include that part of remuneration paid during any calendar year to an individual by an employer after remuneration equal to the applicable base has been paid during such calendar year to such individual by such employer for services rendered as an employee to such employer.

"(ii) REMUNERATION NOT TREATED AS COMPENSATION EXCLUDED.—There shall not be taken into account under clause (i) remuneration which (without regard to clause (i)) is not treated as compensation under this subsection.

"(B) APPLICABLE BASE.—

"(i) TIER 1 TAXES.—Except as provided in clause (ii), the term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(ii) TIER 2 TAXES, ETC.—For purposes of—

"(I) the taxes imposed by sections 3201(b), 3211(a)(2), and 3221(b), and

"(II) computing average monthly compensation under section 3(j) of the Railroad Retirement Act of 1974 (except with respect to annuity amounts determined under subsection (a) or (f)(3) of section 3 of such Act),

clause (2) of the first sentence, and the second sentence, of subsection (c) of section 230 of the Social Security Act shall be disregarded.

"(C) SUCCESSOR EMPLOYERS.—For purposes of this paragraph, the second sentence of section 3121(a)(1) (relating to successor employers) shall apply, except that—

"(i) the term 'services' shall be substituted for 'employment' each place it appears,

"(ii) the term 'compensation' shall be substituted for 'remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection)' each place it appears, and

"(iii) the terms 'employer', 'services', and 'compensation' shall have the meanings given such terms by this section."

(2) Subsection (a) of section 3202 of such Code is amended by striking out the second sentence.

(3) Paragraph (1) of section 3231(e) of such Code is amended by striking out the fourth and fifth sentences.

(4) The last sentence of section 230(c) of the Social Security Act is hereby repealed.

(b) CONCURRENT EMPLOYMENT BY 2 OR MORE EMPLOYERS.—Section 3231 of such Code is amended by adding at the end thereof the following new subsection:

"(i) CONCURRENT EMPLOYMENT BY 2 OR MORE EMPLOYERS.—For purposes of this chapter, if 2 or more related corporations which are employers concurrently employ the same individual and compensate such individual through a common paymaster which is 1 of such corporations, each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual amounts actually disbursed to such individual by another of such corporations."

(c) OTHER TECHNICAL AMENDMENTS.—

(1) The following provisions of the Internal Revenue Code of 1954 are each amended by striking out "tax imposed by section 3201" and inserting in lieu thereof "taxes imposed by section 3201":

(A) Section 3202(a),

(B) Paragraphs (2) and (4) of section 3202(c), and

(C) Paragraph (3) of section 3231(e).

(2) Subsection (a) of section 3202 of such Code is amended by striking out "the amount of the tax" in the first sentence and inserting in lieu thereof "the amount of the taxes", and by striking out "such tax" in the last sentence and inserting in lieu thereof "such taxes".

(3) Paragraph (2) of section 3202(c) of such Code is amended by striking out "the tax under paragraph (1)" and inserting in lieu thereof "the taxes under paragraph (1)".

(4) Paragraph (4) of section 3202(c) of such Code is amended by striking out "such tax" and inserting in lieu thereof "such taxes".

(5) Paragraphs (2) and (4) of section 3202(c) of such Code are each amended by striking out "exceeds" and inserting in lieu thereof "exceed".

(6) Paragraph (3) of section 3231(e) of such Code is amended by striking out "such tax" and inserting in lieu thereof "such taxes".

(7) Subparagraph (A) of section 3231(e)(4) of such Code is amended by striking out "3201(b) and 3221(b) (and so much of section 3211(a) as relates to the rates of the taxes imposed by sections 3101 and 3111)" and inserting in lieu thereof "3201(a), 3211(a)(1), and 3221(a)".

(8) Subsection (h) of section 3231 of such Code is amended—

(A) by striking out "tax imposed under section 3201" and inserting in lieu thereof "taxes imposed by section 3201", and

(B) by striking out all that follows "received" and inserting in lieu thereof a period.

SEC. 226. DEPOSITARY SCHEDULES.

Effective on and after January 1, 1986, the times for making payments prescribed under section 6302 of the Internal Revenue Code of 1954 with respect to the taxes imposed by chapter 22 of such Code shall be the same as the times prescribed under such section which apply to the taxes imposed by chapters 21 and 24 of such Code.

SEC. 227. ESTABLISHMENT OF SOCIAL SECURITY EQUIVALENT BENEFIT ACCOUNT.

The Railroad Retirement Act of 1974 is amended by inserting after section 15 the following new section:

"SOCIAL SECURITY EQUIVALENT BENEFIT ACCOUNT

"SEC. 15A. (a) There is hereby created an account in the Treasury of the United States to be known as the 'Social Security Equivalent Benefit Account'.

"(b) TRANSFERS, ETC., TO SOCIAL SECURITY EQUIVALENT BENEFIT ACCOUNT.—

"(1) NET TIER 1 TAXES, ETC.—There is hereby appropriated to the Social Security Equivalent Benefit Account for each fiscal year, beginning with the fiscal year beginning October 1, 1984, an amount equal to the sum of the following amounts:

"(A) NET TIER 1 TAXES.—Amounts covered into the Treasury (minus refunds) during such fiscal year under sections 3201(a), 3211(a)(1), and 3221(a) of the Railroad Retirement Tax Act.

"(B) INCOME TAX LIABILITIES ATTRIBUTABLE TO TAXATION OF SOCIAL SECURITY EQUIVALENT BENEFITS.—The amount which (but for this section) would have been transferred to the Railroad Retirement Account under section 121(e) of the Social Security Amendments of 1983 to the extent that the amount which would have been so transferred is attributable to taxation of social security equivalent benefits.

Amounts appropriated to the Railroad Retirement Account shall be appropriately reduced to take into account the amounts appropriated under this paragraph to the Social Security Equivalent Benefit Account.

"(2) FINANCIAL INTERCHANGE AMOUNTS.—On and after October 1, 1984, any amount which (but for this section) would have been transferred to the Railroad Retirement Account pursuant to paragraph (2) or (4) of section 7(c) of this Act shall be transferred to the Social Security Equivalent Benefit Account. On and after October 1, 1984, no transfer shall be made to the Railroad Retirement Account pursuant to paragraph (2) or (4) of section 7(c) of this Act.

"(3) CERTAIN CREDITED MILITARY SERVICE AMOUNTS.—To the extent that the authorization for appropriation contained in section 15(b) is attributable to the cost of social security equivalent benefits, on and after October 1, 1984, any reference in such section to the Railroad Retirement Account shall be treated as a reference to the Social Security Equivalent Benefit Account.

"(4) TIME AND MANNER OF CREDITS AND TRANSFERS.—Amounts appropriated or transferred to the Social Security Equivalent Benefit Account under this section shall be credited or transferred to such Account at the same time and in the same manner as such amounts would have been credited or transferred to the Railroad Retirement Account but for this section.

"(c)(1) Except as otherwise provided in this section, amounts in the Social Security Equivalent Benefit Account shall be available only for purposes of paying social security equivalent benefits under this Act and to provide for the administrative expenses of the Board allocable to social security equivalent benefits.

"(2) On and after October 1, 1984, any transfer which (but for this paragraph) would be required to be made from the Railroad Retirement Account under paragraph (2) or (4) of section 7(c) shall be made from the Social Security Equivalent Benefit Account.

"(d)(1) Whenever the Board finds that the balance in the Social Security Equivalent Benefit Account will be insufficient to pay social security equivalent benefits which it estimates are due in any month, it shall request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Social Security Equivalent Benefit Account such moneys as the Board estimates will be necessary for the payment of such benefits, and the Secretary shall make such transfer. Whenever later in such month there is a transfer to the Social Security Equivalent Benefit Account under paragraph (2) or (4) of section 7(c) of this Act, the amount so transferred shall be immediately retransferred to the Railroad Retirement Account. The amount retransferred under the preceding sentence shall not exceed the amount of any outstanding transfers under this paragraph from the Railroad Retirement Account plus such additional amounts determined by the Board to be equal to the loss of interest to the Railroad Retirement Account resulting from such outstanding transfers.

"(2) Whenever the Board determines that—

"(A) amounts in the Railroad Retirement Account will not be sufficient to pay the annuities which it estimates are due, or will become due, from such Account, and

"(B) the transfer under this paragraph will not jeopardize the present or future payment of social security equivalent benefits,

the Board shall request the Secretary of the Treasury to transfer from the Social Security Equivalent Benefit Account to the Railroad Retirement Account such moneys as the Board estimates will be necessary for the payment of such annuities, and the Secretary shall make such transfer. No transfer under this paragraph shall be required to be repaid.

"(e) The provisions of subsections (e), (f), and (g) of section 15 are hereby made applicable to the Social Security Equivalent Benefit Account.

"(f)(1) For purposes of making payments of social security equivalent benefits, references in the Act to the Railroad Retirement Account shall be treated as references to the Social Security Equivalent Benefit Account.

"(2) For purposes of this section, the term 'social security equivalent benefits' means benefits payable under this Act which are of a

kind taken into account in determining the amount of transfers made under section 7(c)(2) of this Act."

SEC. 228. STUDY.

On or before July 1 of 1985 and of each calendar year thereafter, the Railroad Retirement Board shall submit to the Congress a report on the actuarial status of the railroad retirement system under various economic and employment assumptions. Such report shall include any recommendation for financing changes which might be advisable, including—

(1) any adjustment the Railroad Retirement Board recommends regarding the rates of taxes imposed of sections 3201(b), 3211(a)(2), and 3221(b) of the Internal Revenue Code of 1954, and

(2) if there are sufficient reserves in the Railroad Retirement Account, whether—

(A) the rates of such taxes should be reduced, or

(B) any part of the tax imposed by section 3221(b) of such Code should be diverted to the Railroad Unemployment Insurance Account to aid in the repayment of its debt to the Railroad Retirement Account.

SEC. 229. EFFECTIVE DATES.

(a) SECTIONS 221, 222, 223, AND 225.—The amendments made by sections 221, 222, 223, and 225 shall apply to remuneration paid after December 31, 1984.

(b) SECTIONS 224.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by section 224 shall apply to benefits received after December 31, 1983, in the taxable years ending after such date.

(2) TREATMENT OF CERTAIN LUMP-SUM PAYMENTS RECEIVED AFTER DECEMBER 31, 1983.—The amendments made by section 224 shall not apply to any portion of a lump-sum payment received after December 31, 1983, if the generally applicable payment date for such portion was before January 1, 1984.

(3) NO FRESH START.—For purposes of determining whether any benefit received after December 31, 1983, is includible in gross income by reason of section 72(r) of the Internal Revenue Code of 1954, as added by this Act, the amendments made by section 224 be treated as having been in effect during all periods before 1984.

(c) SECTION 226.—Section 226 shall take effect on January 1, 1986.

(d) SECTION 227.—

(1) IN GENERAL.—The amendment made by section 227 shall take effect on October 1, 1984.

(2) TIER 1 TAXES FOR LAST QUARTER OF 1984.—

(A) IN GENERAL.—The tier 1 portion of the tax imposed by section 3201, 3211, or 3221 of the Internal Revenue Code of 1954, as the case may be, with respect to compensation paid before 1985 shall be treated as described in subparagraph (A) of section 15A(b)(1) of the Railroad Retirement Act of 1974.

(B) TIER 1 PORTION.—For purposes of subparagraph (A), the tier 1 portion of any tax is so much of such tax as is determined by reference to the rates of taxes imposed by chapter 21 of the Internal Revenue Code of 1954.

# Subtitle B—Railroad Unemployment Insurance Provisions

## PART I—RAILROAD UNEMPLOYMENT REPAYMENT TAX

### SEC. 231. IMPOSITION OF TAX ON RAIL WAGES TO REPAY LOANS TO RAILROAD UNEMPLOYMENT INSURANCE SYSTEM.

(a) GENERAL RULE.—Subtitle C of the Internal Revenue Code of 1954 (relating to employment taxes) is amended by inserting after chapter 23 the following new chapter:

## "CHAPTER 23A—RAILROAD UNEMPLOYMENT REPAYMENT TAX

"Sec. 3321. Imposition of tax.
"Sec. 3322. Taxable period.
"Sec. 3323. Other definitions.

### "SEC. 3321. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed on every rail employer for each taxable period an excise tax, with respect to having individuals in his employ, equal to the applicable percentage of the total rail wages paid by him during the taxable period.

"(b) TAX ON EMPLOYEE REPRESENTATIVES.—

"(1) IN GENERAL.—There is hereby imposed on the income of each employee representative a tax equal to the applicable percentage of the rail wages paid to him during the taxable period.

"(2) DETERMINATION OF WAGES.—The rail wages of an employee representative for purposes of paragraph (1) shall be determined in the same manner and with the same effect as if the employee organization by which such employee representative is employed were a rail employer.

"(c) RATE OF TAX.—For purposes of this section—

"(1) FOR TAXABLE PERIOD JULY 1 THROUGH DECEMBER 31, 1986.—The applicable percentage for the taxable period beginning on July 1, 1986, and ending on December 31, 1986, shall be 2.0 percent.

"(2) SUBSEQUENT TAXABLE PERIODS.—The applicable percentage for any taxable period beginning after 1986 shall be the sum of—

"(A) 2.0 percent, plus

"(B) 0.3 percent for each preceding taxable period.

In no event shall the applicable percentage exceed 5.0 percent.

### "SEC. 3322. TAXABLE PERIOD.

"(a) GENERAL RULE.—For purposes of this chapter, except as provided in subsection (b), the term 'taxable period' means—

"(1) the period beginning on July 1, 1986, and ending on December 31, 1986,

"(2) each calendar year after 1986 and before 1990, and

"(3) the period beginning on January 1, 1990, and ending on September 30, 1990.

"(b) EARLIER TERMINATION IF LOANS TO RAIL UNEMPLOYMENT FUND REPAID.—The tax imposed by this chapter shall not apply to any rail wages paid on or after the first January 1 after 1986 as of which there is—

"(1) no balance of transfers to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act, and

"(2) no unpaid interest on such transfers.

"SEC. 3323. OTHER DEFINITIONS.

"(a) RAIL EMPLOYER. For purposes of this chapter, the term 'rail employer' means any person who is an employer as defined in section 1 of the Railroad Unemployment Insurance Act.

"(b) RAIL WAGES.—

"(1) IN GENERAL.—For purposes of this chapter, the term 'rail wages' means wages as defined in section 3306(b) with the modifications specified in paragraph (2).

"(2) MODIFICATIONS.—In applying subsection (b) of section 3306 for purposes of paragraph (1)—

"(A) ONLY RAILROAD EMPLOYMENT TAKEN INTO ACCOUNT.—Such subsection (b) shall be applied—

"(i) by substituting 'rail employment' for 'employment' each place it appears, and

"(ii) by substituting 'rail employer' for 'employer' each place it appears.

"(B) WAGE BASE FOR FIRST TAXABLE PERIOD.—In the case of the taxable period beginning on July 1, 1986, and ending on December 31, 1986, such subsection (b) shall be applied by susbtituting '$3,500' for '$7,000' each place it appears in paragraph (1) thereof.

"(C) WAGE BASE FOR LAST TAXABLE PERIOD.—In the case of the taxable period beginning on January 1, 1990, and ending on September 30, 1990, such subsection (b) shall be applied by substituting '$5,250' for '$7,000' each place it appears in paragraph (1) thereof.

"(c) RAIL EMPLOYMENT.—For purposes of this chapter, the term 'rail employment' means services performed by an individual as a rail employee or employee representative.

"(d) RAIL EMPLOYEE AND EMPLOYEE REPRESENTATIVE.—For purposes of this chapter—

"(1) RAIL EMPLOYEE.—The term 'rail employee' means any person who is an employee as defined in section 1 of the Railroad Unemployment Insurance Act.

"(2) EMPLOYEE REPRESENTATIVE.—The term 'employee representative' has the meaning given such term by section 1 of the Railroad Unemployment Insurance Act.

"(e) CONCURRENT EMPLOYMENT BY 2 OR MORE RAIL EMPLOYERS.—For purposes of this chapter, if 2 or more related corporations which are rail employers concurrently employ the same individual

and compensate such individual through a common paymaster which is 1 of such corporations, each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual amouts actually disbursed to such individual by another of such corporations.

"(f) CERTAIN RULES MADE APPLICABLE.—For purposes of this chapter, rules similar to the rules of sections 3307 and 3308 shall apply."

(b) QUARTERLY PAYMENT OF TAX.—

(1) IN GENERAL.—Section 6157 of such Code (relating to payment of Federal unemployment tax on quarterly or other time period basis) is amended by adding at the end thereof the following new subsection:

"(d) QUARTERLY PAYMENT OF RAILROAD UNEMPLOYMENT REPAYMENT TAX.—

"(1) IN GENERAL.—Every rail employer shall compute the tax imposed by section 3321 for each calendar quarter in any taxable period in the manner provided in paragraph (2). The tax so computed shall, except as otherwise provided in paragraph (3), be paid in such manner and at such time as may be provided in regulations prescribed by the Secretary.

"(2) COMPUTATION OF TAX.—The tax for any calendar quarter shall be computed by multiplying the aggregate amount of rail wages paid in such calendar quarter by the applicable percentage determined under section 3321(c).

"(3) EXCEPTIONS.—No payment shall be required under this subsection—

"(A) for the last calendar quarter in any taxable period, and

"(B) for any calendar quarter if the tax under section 3321 for such quarter, plus any unpaid amounts for prior calendar quarters in the taxable period, does not exceed $100.

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'taxable period', 'rail employer', and 'rail wages' have the same respective meanings as when used in chapter 23A."

(2) TECHNICAL AMENDMENTS.—

(A) Paragraph (2) of section 6201(b) of such Code (relating to amount not to be assessed) is amended by striking out "Federal unemployment tax" and inserting in lieu thereof "Federal unemployment tax or tax imposed by section 3321".

(B) Section 6317 of such Code (relating to payments of Federal unemployment tax for calendar quarter) is amended—

(i) by striking out "Federal unemployment tax" and inserting in lieu thereof "Federal unemployment tax or tax imposed by section 3321", and

(ii) by striking out "chapter 23" and inserting in lieu thereof "chapter 23 and 23A, as the case may be,".

(C) Subsection (e) of section 6513 of such Code (relating to payments of Federal unemployment tax) is amended by

adding at the end thereof the following new sentence: "Notwithstanding subsection (a), for purposes of section 6511, any payment of tax imposed by chapter 23A which, pursuant to section 6157, is made for a calendar quarter within a taxable period shall, if made before the last day prescribed for filing the return for the taxable period (determined without regard to any extension of time for filing), be considered made on such last day."

(D) Subsection (i) of section 6601 of such Code is amended by striking out "3301" and inserting in lieu thereof "3301 or 3321".

(c) CLERICAL AMENDMENT.—The table of chapters for subtitle C of such Code is amended by inserting after the item relating to chapter 23 the following new item:

"CHAPTER 23A. Railroad Unemployment Repayment Tax."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid after June 30, 1986.

SEC. 232. TAX USED TO REPAY LOANS MADE TO RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT.

(a) TRANSFER TO RAILROAD RETIREMENT ACCOUNT.—

(1) IN GENERAL.—The Secretary of the Treasury shall transfer from the general fund of the Treasury to the Railroad Retirement Account an amount equal to the additional railroad unemployment taxes received in the Treasury.

(2) TAXES CREDITED AGAINST LOANS TO RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT.—Any amount transferred under paragraph (1) shall be credited against, and operate to reduce, the outstanding balance of railroad unemployment loans.

(b) TRANSFERS MADE MONTHLY.—Transfers under subsection (a) shall be made at least monthly on the basis of estimates made by the Secretary of the Treasury of the amount of the additional railroad unemployment taxes received in the Treasury. Proper adjustments shall be made in the amount subsequently transferred to the extent prior estimates were in excess of or were less than the amounts required to be transferred.

(c) TRANSFERS TO RAILROAD UNEMPLOYMENT FUND AFTER LOANS REPAID.—If—

(1) the amount which (but for this subsection) would be transferred to the Railroad Retirement Account under subsection (a), exceeds—

(2) the outstanding balance of railroad unemployment loans (as of the time of such transfer),

such transfer (to the extent it exceeds such outstanding balance) shall be made to the Railroad Unemployment Account.

(d) DEFINITIONS.—For purposes of this section—

(1) ADDITIONAL RAILROAD UNEMPLOYMENT TAXES.—The term "additional railroad unemployment taxes" means the taxes imposed by chapter 23A of the Internal Revenue Code of 1954.

(2) RAILROAD UNEMPLOYMENT ACCOUNT.—The term "Railroad Unemployment Account" means the railroad unemployment insurance account in the unemployment trust fund established pursuant to section 904 of the Social Security Act.

(3) RAILROAD UNEMPLOYMENT LOANS.—The term "railroad unemployment loans" means transfers under section 10(d) of the

Railroad Unemployment Insurance Act from the Railroad Retirement Account to the Railroad Unemployment Account. The outstanding balance of such loans shall include any interest required to be paid under such section 10(d).

## PART II—TAXATION OF SICK PAY PAID UNDER RAILROAD UNEMPLOYMENT INSURANCE ACT

### SEC. 241. TAXATION OF SICK PAY PAID UNDER RAILROAD UNEMPLOYMENT INSURANCE ACT.

(a) GENERAL RULE.—Section 105 of the Internal Revenue Code of 1954 (relating to amounts received under accident and health plans) is amended by adding at the end thereof the following new subsection:

"(i) SICK PAY UNDER RAILROAD UNEMPLOYMENT INSURANCE ACT.—Notwithstanding any other provision of law, gross income includes benefits paid under section 2(a) of the Railroad Unemployment Insurance Act for days of sickness; except to the extent such sickness (as determined in accordance with standards prescribed by the Railroad Retirement Board) is the result of on-the-job injury."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after December 31, 1983, in taxable years ending after such date.

*Amendment No. 2*

Add at the end of title II of the bill (as amended by the preceding amendment) the following new part:

## PART III—INCREASE IN MONTHLY WAGE BASE

### SEC. 251. INCREASE IN MONTHLY WAGE BASE.

(a) GENERAL RULE.—

(1) Subsection (a) of section 8 of the Railroad Unemployment Insurance Act is amended by striking out so much of such subsection as precedes the table contained therein and inserting in lieu thereof the following:

"SEC. 8. (a) Every employer shall pay a contribution, with respect to having employees in his service, equal to the percentage determined as set forth below of so much of the compensation as is not in excess of $600 for any calendar month paid by him to any employee for any services rendered to him. If compensation is paid to an employee by more than one employer with respect to any such calendar month, the contributions required by this subsection shall not apply to more than $600 of the aggregate compensation paid to such employee by all such employers with respect to such calendar month, and each employer (other than a subordinate unit of a national railway-labor-organization employer) shall be liable for that portion of the contribution with respect to such compensation paid by all such employers which the compensation paid by him to such employee for services rendered during such month bears to the total compensation paid by all such employers to such employee for services rendered during such month. In the event that the compensation so paid by such employers to the employee for services rendered during such month is less than $600, each subordinate unit of a national railway-labor-organization employer shall be

liable for such portion of any additional contribution as the compensation paid by such employer to such employee for services rendered during such month bears to the total compensation paid by all such employers to such employee for services rendered during such month:".

(2) Subsection (b) of section 8 of such Act is amended—

(A) by striking out "after December 1975", and

(B) by striking out "$400," and inserting in lieu thereof "$600,".

(b) CONFORMING AMENDMENT.—The first sentence of subsection (i) of section 1 of such Act is amended by striking out "or in excess of $400 for any month after the month in which this Act was so amended" and inserting in lieu thereof "or in excess of $400 for any month after the month in which this Act was so amended and before January 1984, or in excess of $600 for any month after 1983".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to compensation paid for services rendered after December 31, 1983.

*Amendment No. 3*

Strike out line 1 on page 32 and all that follows down through line 5 on page 34 and insert the following:

SEC. 302. Subsection (d) of section 10 of the Railroad Unemployment Insurance Act is amended by adding at the end thereof the following new sentence: "No transfer shall be made under this subsection from the Railroad Retirement Account after September 30, 1985, and no such transfer shall be made on or before September 30, 1985, for purposes of paying benefits and refunds due after such date."

*Amendment No. 4*

Page 43, after line 5, add the following:

SEC. 411. (a)(1) The first proviso of subsection (k) of section 1 of the Railroad Unemployment Insurance Act is amended by striking out "$1,000" and inserting in lieu thereof "$1,500".

(2) Section 3 of such Act is amended by striking out "$1,000" and inserting in lieu thereof "$1,500".

(3) Section 4(a-2)(i)(A) of such Act is amended by striking out "$1,000" and inserting in lieu thereof "$1,500".

(b) The amendments made by this section shall apply to compensation paid for services rendered after December 31, 1983.

SEC. 412. Subsection (a) of section 2 of the Railroad Unemployment Insurance Act is amended by striking out *"Provided, however"* and all that follows down through the end of the first sentence and inserting in lieu thereof: *"Provided, however,* That in any case in which the Board finds that his unemployment was due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which he was last employed, no benefits shall be payable for the first fourteen days of unemployment due to such stoppage of work."

(b) The amendment made by subsection (a) shall apply with respect to days of unemployment in registration periods beginning after December 31, 1983.

SEC. 413. (a) Representatives of railroad labor and railroad management shall jointly establish (and jointly appoint the members of) a committee to be known as the "Railroad Unemployment Compensation Committee" (hereinafter in this section referred to as the "Committee").

(b) The Committee shall consist of 5 members—

(1) 2 of whom shall be representatives of railroad labor,

(2) 2 of whom shall be representatives of railroad management, and

(3) 1 of whom shall be an individual who shall not be in the employment of or pecuniarily or otherwise interested in any employer (as defined in section 1 of the Railroad Retirement Act of 1974) or any organization of employees (as defined in section 1 of such Act).

(c) The Committee shall review all aspects of the unemployment and sickness insurance systems provided by the Railroad Unemployment Insurance Act including (but not limited to) a review of—

(1) benefit levels,

(2) experience rating,

(3) debt repayment and interest on debt,

(4) waiting period for unemployment benefits and qualifying requirements, and

(5) alternatives to the railroad unemployment insurance system such as covering railroad employees under the Federal-State unemployment compensation system.

(d) Not later than April 1, 1984, the Committee shall submit a report to the Congress containing recommendations—

(1) with respect to the review conducted under subsection (c), and

(2) with respect to the repayment of funds which the railroad unemployment insurance system has borrowed from the Railroad Retirement Account.

Any recommendation submitted under paragraph (2) shall contain adjustments in contributions and benefits which will enable the railroad unemployment compensation system to repay all loans from the Railroad Retirement Account before December 31, 2000.

(e) The Railroad Retirement Board (and any other department, agency, or instrumentality of the Federal Government) is authorized to cooperate with, and assist, the Committee (at its request) in carrying out its duties by furnishing services, information, data, or other material which the Committee determines will be helpful in carrying out its duties.

## 1. PURPOSES AND SCOPE

The purpose of the Railroad Retirement Solvency Act of 1983 (H.R. 1646) is to improve the financial status of the Railroad Retirement System. Such action is necessary both to assure the future solvency of the system and to preclude the need for the substantial benefit reduction that would otherwise be required on October 2, 1984, as a result of section 22 of the Railroad Retirement Act.

As reported by the Committee on Energy and Commerce, H.R. 1646 would increase tax revenues to the Railroad Retirement Account by approximately $3 billion from fiscal years 1984 through 1988. In addition, the Railroad Unemployment Compensation System would be authorized to borrow from the Federal Unemployment Insurance Trust Fund in the same manner (except for repayment requirements) in which States borrow from this Fund. This borrowing authority would allow the Unemployment Compensation System to repay its debt to the Railroad Retirement System (estimated to be $650 million by FY84). Future borrowing from the Railroad Retirement System would be prohibited.

As reported from the Committee on Energy and Commerce, H.R. 1646 represents a significant step in the direction of assuring the solvency of the Railroad Retirement System. However, your Committee is concerned regarding the adequacy of reserve levels which would result under that version of the bill if adverse economic and employment projections proved to be accurate. In addition, your Committee questions the appropriateness of allowing the Railroad Unemployment Compensation system to borrow Federal funds with no requirement to repay borrowed amounts and no demonstrable ability to repay these amounts in the forseeable future. Questions of equity vis-a-vis the various States, who are required to repay such loans, also arise.

While your Committee has passed an amendment which would delete that provision of the bill which authorized borrowing from the Federal Unemployment Insurance Trust Fund, this only further heightens your Committee's concern with the retirement system's reserve levels.

Your Committee also believes that it is appropriate, as a matter of public policy, to make certain changes in the bill with respect to the wage base and the effective dates of tax rate changes to conform Tier One of the Railroad Retirement System with the social security system.

Concerning the Railroad Unemployment Compensation System, your Committee is concerned with both its continued financial viability and the extent to which its financial difficulties endanger the viability of the retirement system through continued borrowing.

The amendments approved by your Committee provide for an additional $1 billion in revenues to the Railroad Retirement and Unemployment Compensation Systems between fiscal years 1984 and

1989. This additional revenue will substantially increase the likelihood that the Railroad Retirement Account will be able to meet benefit obligations for the foreseeable future, reduce the need of the Unemployment Compensation System to borrow from the Railroad Retirement System, and allow for at least partial repayment of the Unemployment Compensation system's debt to the Railroad Retirement System.

## II. SUMMARY OF PRINCIPAL PROVISIONS

Consistent with your Committee's concern with the financial status of both the Railroad Retirement and Unemployment Compensation systems, the amendments approved by your Committee would increase revenues to the Railroad Retirement and Unemployment Compensation systems through a number of different mechanisms.

A summary of the major provisions approved by the your Committee follows.

### A. Increased Retirement Tax Rates

Tier Two tax rates would be increased by a total of 2.25 percentage points for employees and by 3 percentage points for employer and employee representatives. These increases would be provided for in three equal steps (.75 percentage points for employees and 1 percentage point for employers) and would become effective on July 1, 1984, January 1, 1985 and January 1, 1986.

### B. Taxation of Retirement Benefits

Effective for benefits received after January 1, 1984, Tier Two benefits and Dual Benefit payments ("windfall") would be treated for income tax purposes as benefits received under a tax qualified pension plan. The revenues derived from the taxation of these benefits would be deposited in the Railroad Retirement Account until fiscal year 1989 and be available for the payment of benefits. Beginning in fiscal year 1989 or, if earlier, when the revenues attributable to the taxation of Tier Two benefits reaches $877 million, the proceeds derived from the taxation of Tier Two benefits would be deposited into the general fund of the Treasury. The revenue derived from the taxation of windfall benefits would be deposited, beginning in fiscal year 1989, in the Dual Benefits Payments Account.

### C. Annualization of Retirement Wage Bases

The current monthly Tier One wage base which is equal to one-twelfth of the annual social security wage base (estimated to be $3,125 per month in 1984) would be changed to an annual amount equal to the social security wage base (estimated to be $37,500 in 1984). The current monthly Tier Two base would also be changed to an annual amount equal to twelve times the monthly amount. (The estimates for the monthly and annual bases in 1984 are $2,350 and $28,200, respectively.) Both changes are effective January 1, 1985 and, both wage bases would be increased at a rate equal to average wage growth in the ecomomy.

### D. Deletion of Authority for Unemployment Compensation Program to Borrow Federal Funds

Section 302 of H.R. 1646, as reported by the Committee on Energy and Commerce, would be deleted. This action deletes the authority for the railroad unemployment compensation (RRUC) program to borrow from the Federal unemployment account in the Federal Unemployment Trust Fund. The RRUC program would be allowed to continue to borrow from the Railroad Retirement Account, as under current law, but only until September 30, 1985.

### E. Increased Unemployment Tax Base

Effective January 1, 1984 RRUC employer taxes would be increased by 50 percent, by increasing the amount of monthly wages subject to the tax from $400 to $600.

### F. Unemployment Compensation "Repayment" Tax

Effective July 1, 1986 through September 30, 1990, a "Federal repayment" tax would be imposed on railroad companies. The tax would be equal to 2.0 percent on the first $7,000 in annual wages paid to each employee. This tax will increase by 0.3 percent on each subsequent January 1, up to a maximum of 5.0 percent. Revenue raised by this repayment tax would be used only to repay loans the railroad retirement account has made to the RRUC program.

### G. Taxation of Sickness Benefits

Sick pay benefits provided under the RRUC program, except for sick pay resulting from on-the-job injuries, would be subject to the Federal income tax under the same limitations and conditions that apply to the taxation of sick pay received by workers in other industries. This would be effective for sick pay benefits received after December 31, 1983.

### H. Railroad Unemployment Compensation Committee

A Railroad Unemployment Compensation Committee would be established for the purpose of reviewing all aspects of the railroad unemployment program and submitting a report to Congress no later than April 1, 1984 containing (a) recommendations based on its review of the program and (b) recommended adjustments in contributions and benefits which will enable the RRUC program to repay all loans from the Railroad Retirement Account by the end of the year 2000.

Your Committee notes that in the House of Representatives jurisdiction over the Railroad Retirement and Unemployment Compensation system is divided between two standing committees. The Committee on Energy and Commerce has jurisdiction over "railroads, including labor, Railroad Retirement, and unemployment except revenue measures related thereto" (Rule X(1)(h)(11)). The Committee on Ways and Means has jurisdiction over "revenue measures generally" (Rule X(1)(v)(3)) and "the deposit of public moneys" (Rule X(1)(v)(6)).

Aspects of the amendments reported by the Committee on Ways and Means are more properly within the jurisdiction of the Committee on Energy and Commerce (i.e. Sec. 412 as added by the Committee amendments, relating to benefits for strikers) and other aspects (i.e. Sec. 302—the deletion of borrowing authority from the Federal Unemployment Trust Fund and the limitation of the borrowing between the rail retirement and unemployment accounts, and Sec. 412—establishing a Railroad Unemployment Compensation Committee to review both benefits and financing) are properly within the purview of both Committees.

As a result of this overlap, the Committee on Ways and Means has structured its amendments to minimize jurisdictional conflict as follows:

(1) The first Ways and Means amendment, a substitute to Title II of the bill contains only revenue items properly within the jurisdiction of the Committee on Ways and Means;

(2) The second Ways and Means amendment relating to increases in the UC wage base would be offered as an amendment to the Ways and Means substitute Title II. Although a tax provision, offering it separately would allow the Committee on Energy and Commerce to debate this matter separately in the House;

(3) The third amendment to delete Section 302 of the bill allowing borrowing from the Federal Unemployment Compensation system and replace it with a new section prohibiting borrowing by the RRUC program from the retirement account after September 30, 1985;

(4) The fourth Ways and Means Committee amendment would add those provisions establishing a Railroad Unemployment Compensation Committee, conforming the qualifying earning requirement for UC and increasing the waiting period for unemployment benefits during a strike to Title IV of the bill.

In this manner, the Committee has tried to properly separate jurisdictional responsibility between Titles, and allow for separate consideration of matters not entirely within the province of the Committee on Ways and Means.

## III. SUMMARY OF RETIREMENT (RRS) AMENDMENTS

(1) Sections 211, 212, 221–223: Provide three equal tax rate increases for both employer (1 percent) and employees (.75 percent) which will become effective on July 1, 1984, January 1, 1985 and January 1, 1986.

(2) Sections 221–223, 225: Apply railroad retirement Tier One and Two taxes to an annual amount equal to twelve times the current applicable monthly wage base. (Effective date: January 1, 1985.)

(3) Section 224: Tax Tier Two benefits as a private pension and return proceeds to the Railroad Retirement Account until the earlier of: FY 89; or the amount of revenue transferred under this provision equals $877 million. Beginning in fiscal year 1989 the proceeds from the tax would be deposited in the General Fund. Tax windfall benefits as a private pension and deposit proceeds to the Railroad Retirement Account until fiscal year 1989. Beginning in fiscal year 1989, the proceeds from the tax will be deposited in the Windfall Benefits Account. (Effective date: benefits received on or after January 1, 1984.)

(4) Section 226: Accelerate the employer payroll tax deposit schedule, to conform to the FICA deposit schedule. (Effective date: January 1, 1986.)

(5) Section 227: Create a "Social Security Equivalent Benefit Account" and deposit in the Account all "social security equivalent" revenues. Pay all social security equivalent benefits out of the account. (Effective date: October 1, 1984)

(6) Section 228: Provide that on July 1, 1985, and each subsequent July 1, the Railroad Retirement Board shall submit to the Congress a report on the actuarial status of the Railroad Retirement System and make any recommendations for financing changes that might be advisable, including adjustments in the level of Tier Two tax rates and the feasability of diverting part of the employer portion of those rates to the Railroad Unemployment Insurance Account to aid in repayment of its debt to the Railroad Retirement Account.

## IV. GENERAL DISCUSSION OF RETIREMENT AMENDMENTS

### Increases in Tier Two Tax Rates and Annualization of Wage Bases (Sections 211, 212, 221–223)

#### PRESENT LAW

Under current law the Tier Two tax rates for employers is 11.75 percent; the rate for employees is 2.0 percent. (The Tier Two tax rate for employee representatives is equal to that rate which applies to employers.)

In addition, under current law railroad retirement Tier One and Tier Two taxes are paid on rail wages under a certain monthly base. The Tier One wage base is equal to one-twelfth of the social security annual wage base. The Tier Two wage base is equal to one-twelfth of the amount which the social security wage base would have been without the ad hoc increases provided in the Social Security Amendments of 1977.

#### REASONS FOR CHANGE

In light of the need of the retirement system for additional revenues, your Committee has recommended increased tax rates and the annualization of the Tier One and Tier Two wage bases. In addition to increasing revenues, the latter change would result in making Tier One benefits for many rail workers more equivalent to the benefits which they would have received had their employment been covered by the Social Security Act.

#### EXPLANATION OF PROVISION

Tier Two tax rate increases are provided for both employer and employees. These incentives will become effective on July 1, 1984, January 1, 1985 and January 1, 1986. The Tier Two tax rate increases and the years in which they occur are as follows:

| Year | Employers | Employees |
|---|---|---|
| 1984 | 12.75 | 2.75 |
| 1985 | 13.75 | 3.50 |
| 1986 or thereafter | 14.75 | 4.25 |

In addition, railroad retirement taxes will be paid on an annual rather than a monthly wage base (See Section 225 for the computation of the annual wage bases.)

## Taxation of Tier Two and Windfall Benefits (Section 224)

### Present Law

*Types of benefits*

The benefits provided under the the Railroad Retirement Act of 1974 generally consist of several parts—a tier 1 component that is comparable to Social Security and a tier 2 component that is designed to supplement the tier 1 benefit. The tier 2 benefit resembles a pension plan. These benefits may be augmented by a supplemental annuity that rewards long periods of service and, in some instances, a 'windfall" benefit earned by railroad and nonrailroad employment prior to 1975.

*Taxation of railroad retirement benefits*

Under present law, tier 1 railroad benefits are subject to Federal income taxation for taxpayers with incomes above certain levels, in the same manner as social security benefits are taxed. Benefits paid as a supplemental annuity are includible in an individual's gross income when received for Federal income tax purposes.[1] All other railroad retirement benefits (i.e., tier 2 benefits and windfall benefits) are not subject to Federal income taxation under present law.

For Federal estate tax purposes, present law generally requires the inclusion of railroad benefits in the decedent's gross estate, except for certain lump sum benefits paid to a spouse or parent under age 60.[2]

*Taxation of benefits received under retirement plans*

The Federal income tax treatment of benefits provided under a private retirement plan (i.e., a pension plan) depends upon whether the benefits are provided under a tax qualified pension plan. If a pension plan qualifies by meeting various requirements specified in the tax law, then (1) a trust under the plan is generally exempt from income tax, (2) benefits distributed as a lump sum distribution may be accorded special long-term capital gain treatment or 10-year income averaging treatment, or may be rolled over, tax-free, to an individual retirement account, annuity, or bond (IRA) or to another qualified plan, and (3) certain estate and gift tax exclusions are provided.

Under the rules relating to qualified plans, employee contributions generally are not deductible from an employee's gross income when contributed. Accordingly, when benefits are provided under a qualified plan, employee contributions are not includible in gross income.[3]

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[1] Rev. Rul. 70-343, 1970-2, CB 4.

[2] Rev. Rul. 73-316, 1973-2 CB 318.

[3] Employee contributions are considered an investment in the contract for purposes of determining the income tax treatment of amounts payable as an annuity under a qualified plan. If an individual would receive an amount exceeding the employee contributions during the first three years after annuity payments begin, no amounts are included in gross income until the employee contributions have been recovered (sec. 72(d) of the Internal Revenue Code). In other cases, annuity benefits are prorated between taxable and nontaxable elements to reflect employee contributions (sec. 72(a) of the Internal Revenue Code).

*Withholding from pensions and annuities*

Under present law, income tax withholding is required from the taxable portion of any distribution or payment (*i.e.*, any designated distribution) from or under an employer deferred compensation plan or pension plan unless the payee elects, in writing, not to have withholding applied to the designated distribution. The payor of a designated distribution is required to provide a payee with notice of the right to elect not to have the withholding rules apply. This notice must contain a statement that the payee may be subject to penalties if he elects out of withholding and fails to make sufficient estimated tax payments during the year.

*Reasons for change*

Since the Social Security Amendments of 1983 (P.L. 98–21) provided for the taxation of both social security and Tier One benefits, your Committee believes it is appropriate, as a matter of public policy, to provide for the taxation of dual benefit payments (windfall benefits) and Tier Two benefits. In view of the fact that these are benefits which are paid to rail workers above and beyond any social security benefit which the beneficiary may receive, your Committee concluded that it would be appropriate to treat such benefits as private pensions for income tax purposes.

Your Committee believes that the proper disposition of the revenues raised by the changes made in this section, is to temporarily deposit the additional revenues in the Railroad Retirement Account, so that they will be available for the payment of benefits and then to subsequently deposit these funds in the General Fund, in the case of Tier Two benefits, or in the Windfall Benefits Payment Account, in the case of dual benefits.

## Explanation of the Provisions

*Taxation of railroad retirement benefits*

Your Committee's bill provides that any benefit provided under the Railroad Retirement Act of 1974 (other than a tier 1 railroad retirement benefit) is treated as a benefit provided under a tax qualified pension plan. Accordingly, under the bill, a benefit provided under the Railroad Retirement Act of 1974 (other than a tier 1 benefit) generally (1) is, if payable in the form of an annuity, includible in gross income when paid,[4] (2) is, under certain circumstances, eligible for 10-year income averaging, capital gains treatment, or tax-free rollover to another qualified plan or an individual retirement account, annuity, or bond (IRA),[5] (3) is, under certain circumstances, eligible for the $100,000 estate tax exclusion applicable to qualified plans, [6] and (4) might affect the extent to which the employer could provide contributions or benefits under another qualified plan.[7]

Under your Committee's bills, the tier 2 portion of the tax imposed on employees and on employee representatives is treated as

[4] Sec. 72 of the Internal Revenue Code.
[5] Sec. 402 of the Internal Revenue Code.
[6] Sec. 2039 of the Internal Revenue Code.
[7] Sec. 415 of the Internal Revenue Code.

employee contibutions that are not includible in gross income when received.[8] The tier 2 portion of the tax imposed on employers is treated as employer contributions.[9] Generally, the tier 2 portion of the tax imposed on employees, employee representatives, and employers is the portion of the tax that exceeds the corresponding social security (FICA) tax rate. Under the bill, no amount treated as an employee contribution is allocated to benefits provided as a supplement annuity of windfall benefit.

*Withholding from railroad retirement benefits*

Because railroad retirement benefits (other than tier 1 benefits) are treated, under the bill, as benefits provided under qualified pension plans, the rules relating to income tax withholding from pensions and annuities apply.

*Reporting*

The bill requires that the Railroad Retirement Board make an annual return, under forms and regulations prescribed by the Secretary of the Treasury, containing the following information: (1) the aggregate amount of benefits (other than tier 1 railroad retirement benefits) provided to any individual during the calendar year, (2) the portion of tier 2 taxes attributable to employee contributions that have not previously been taken into account, (3) the name and address of the individual, and (4) any other information the Secretary requires.

Additionally, the Board is required, by January 31 of the year following the year for which the return is made, to furnish a written statement to each individual who is listed on the return. This statement is required to show (1) the aggregate amount of payments to the individual, (2) the amounts attributable to employee contributions, and (3) any other information the Secretary requires.

*Appropriations*

The bill also requires that, with respect to benefits received before October 1, 1988, the income tax liabilities attributable to the change in the taxation of railroad retirement benefits made by this bill are appropriated to the Railroad Retirement Account. The aggregate amount appropriated, to the extent attributable to benefits that are not windfall benefits, may not exceed $877 million. For benefits received after September 30, 1988, the bill requires an appropriation only, of the income tax liabilities attributable to the taxation of windfall benefits, to the Dual Benefits Payment Account. No appropriations are made for the income tax liabilities attributable to supplemental annuities. The amounts appropriated will be estimated by the Secretary of the Treasury and transferred at least once each quarter. Subsequent adjustments are to be made to adjust for errors in the initial estimates.

*Effective date*

This section applies to benefits received after December 31, 1983, in taxable years ending after that date. It does not apply to any

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[8] Secs. 3201 and 3211 of the Internal Revenue Code.
[9] Sec. 3221 of the Internal Revenue Code.

lump sum benefit to the extent attributable to benefits generally payable before January 1, 1984. For purposes of determining the extent to which employee contributions previously have been recovered under the rules of section 72 of the Internal Revenue Code, the section is treated as if it had been in effect for all periods before 1984. Thus, for example, suppose that a recipient of tier 2 benefits would have had benefits equal to his contributions excluded from gross income in taxable years beginning before 1984 had the amendments made by the bill been in effect during those years. For this recipient, no benefits would be excluded from gross income in taxable years beginning after December 31, 1983, by reason of being treated as employee contributions.

### Technical Amendments (Section 225)

#### PRESENT LAW

Under current law railroad employment taxes are applied to wages up to a certain monthly wage base.

#### REASONS FOR CHANGE

Several technical and conforming amendments to the Railroad Retirement Tax Act are required in light of the fact that the current monthly wage bases for railroad retirement taxes are changed to annual amounts under Sections 221 through 223 of the bill, as amended by your Committee.

#### EXPLANATION OF PROVISION

The bill provides that the annual Tier One wage base would be identical to the social security wage base. The Tier Two wage base would be equal to the amount which the social security base would have been without the ad hoc increases in the base which were contained in the Social Security Amendments of 1977 (Public Law 95-216).

In addition, compensation would be taxed when it is paid to the employee.

### Deposits of Railroad Retirement Employment Taxes (Section 226)

#### PRESENT LAW

Under current law, nonrailroad employers who have $500 or more of undeposited FICA and withholding taxes at the end of any month must deposit those taxes within 15 days after the end of that month. However, employers who have $3,000 or more of undeposited taxes at the end of any eight-monthly period must deposit those taxes within 3 banking days after the close of the eighth-monthly period.

Although railroads and nonrailroads have the same deposit requirements for withheld Federal income taxes, less frequent deposits of retirement contributions are required for railroad employers. For any month in which railroad employer and employee retirement contributions exceed $100, deposits must be made:

Within 15 days after the close of the month for the first 2 months of a quarter, and

By the end of the month following the last month of a quarter.

For example, contributions received from wages paid in January must be deposited by February 15, in February by March 15, and in March by April 30.

#### REASONS FOR CHANGE

Your Committee believes that there is no public policy justification for continuing the current differences between the deposit schedule for social security (FICA) and railroad retirement (RRTA) taxes. It is your Committee's view that the same schedule should be applicable to both systems.

#### EXPLANATION OF PROVISION

Effective on and after January 1, 1986, the schedule under which railroad employers would be required to deposit railroad retirement employment taxes would be the same as the schedule which applies to nonrailroad employers for purposes of depositing social security and income taxes. (While your Committee notes that the IRS already has authority under current law to effect these changes, your Committee intends that these changes must be made no later than January 1, 1986.)

In addition, your Committee expects that when the Secretary of the Treasury accelerates the deposit schedule, he will take the actions necessary to ensure that the Railroad Retirement Account does not suffer the loss on interest income due to delays in transferring payroll tax deposits to the Railroad Retirement Account. One method of accomplishing this goal would be to require that employers making relatively large deposits of railroad retirement taxes use the Treasury Financial Communication System (TFCS) when depositing such taxes.

### ESTABLISHMENT OF THE SOCIAL SECURITY EQUIVALENT BENEFIT ACCOUNT (SECTION 227)

#### PRESENT LAW

The Railroad Retirement Board maintains three separate accounts in order to finance railroad retirement benefits. Dual benefits (windfall benefits) are paid from the Dual Benefit Account which was created in 1981. Supplemental annuities are paid from Supplemental Account. All other benefits (both social security and private pension equivalent benefits) are paid from the Railroad Retirement Account. Revenues to the Railroad Retirement Account consist generally of Tier One and Tier Two taxes, amounts transferred from the social security trust funds under the financial interchange and interest.

#### REASON FOR CHANGE

Your Committee believes that the creation of the Social Security Equivalent Benefits Account would: (1) provide the same payment

guarantee as is accorded entitlements under the social security program; (2) permit clearer assessments of the solvency of each component; and (3) provide for improved accounting control and funding source integrity.

EXPLANATION OF PROVISION

Effective October 1, 1984, there would be created a "Social Security Equivalent Benefit Account" and all social security equivalent revenues (including Tier One taxes, the revenues derived from the taxation of social security equivalent benefits, and amounts transferred to the Railroad Retirement System through or borrowed against the financial interchange) would be deposited in the Account, rather than into the Retirement Account. In addition, all social security equivalent benefits would be paid out of the account. If the operation of the financial interchange results in a transfer from the Social Security Equivalent Account to the Social Security Trust Funds such transfers are also authorized under this provision.

The transfers and credits to the Social Security Equivalent Benefit Account would be made at the same time and in the same manner as transfers and credits are now made to the Railroad Retirement Account. The Social Security Equivalent Benefit Account also would be invested in the same manner as the Railroad Retirement Account.

As a result, the creation of this Account would not significantly affect the financial condition of either account. Nor would the creation of this account affect, in any way, benefits currently payable under the Railroad Retirement Act.

ACTUARIAL STUDY (SECTION 228)

PRESENT LAW

Under present law two recurrent reports are required to be submitted to the Congress by the Railroad Retirement Board. The Annual Report of the Board (submitted pursuant to Section 7(b)6 of the Railroad Retirement Act and Section 12(1) of the Railroad Unemployment Insurance Act) consists primarily of a summary of the operation of the Railroad Retirement and Unemployment Compensation programs for the previous fiscal year. In addition, the Board is also required to submit at intervals no longer than three years an actuarial valuation of the assets and liabilities under the Railroad Retirement Act.

REASON FOR CHANGE

Your Committee believes that reports to the Congress concerning the actuarial status of the Railroad Retirement System should be submitted more frequently than every three years. Your Committee also believes that such reports should also evaluate the Railroad Retirement system's financial operation in light of the operation of the Railroad Unemployment System.

EXPLANATION OF PROVISION

The bill provides that on July 1, 1985, and each subsequent July 1, the Railroad Retirement Board shall submit to the Committee on Ways and Means and the Committee on Finance a report on the actuarial status of the Railroad Retirement System under various economic and employment assumptions and make any recommendations for financing changes that might be advisable which shall include any adjustment the Board might recommend regarding the level of Tier Two tax rates and whether, if there are sufficient reserves in the retirement fund, such tax rates should either be reduced or whether any part of the employer portion of those rates should be diverted to the Railroad Unemployment Insurance Account to aid in repayment of its debt to the Railroad Retirement Account.

## V. SUMMARY OF UNEMPLOYMENT COMPENSATION (RRUC) AMENDMENTS

1. Sections 231 and 232: Impose, effective July 1, 1986 through September 30, 1990, a Federal "repayment" tax on railroad companies equal to 2.0 percent on the first $7,000 in annual wages paid to each employee. This tax will increase by 0.3 percent on each subsequent January 1, up to a maximum of 5.0 percent. Revenue raised by this repayment tax will be used only to repay loans the railroad retirement account has made to the RRUC program.

2. Section 241: Make "sick pay" benefits provided under the RRUC program, except for sick pay resulting from on-the-job injuries, subject to the Federal income tax under the same limitations and conditions that apply to the taxation of sick pay received by workers in other industries. Effective for sick pay benefits received after December 31, 1983.

3. Section 251: Increase RRUC employer taxes by 50 percent, by increasing the amount of monthly wages subject to the tax from $400 to $600. Effective January 1, 1984.

4. Section 302: (a) Delete section 302 of the bill. This deletes the authority for the RRUC program to borrow from the Federal unemployment account in the Federal Unemployment Trust Fund.

(b) Allow the RRUC program to continue to borrow necessary amounts from the Railroad Retirement Account, as under current law, but only until September 30, 1985.

5. Section 411: Conform the qualifying earnings requirement to the increase in amount of wages subject to the unemployment tax by raising the qualifying earnings requirement 50 percent, from $1,000 to $1,500 in each base year. Effective January 1, 1984.

6. Section 412: Increase the waiting period for payments of RRUC benefits during any strike from 7 to 14 days. Effective January 1, 1984.

7. Section 413: Establish a Railroad Unemployment Compensation Committee for the purpose of reviewing all aspects of the railroad unemployment program and submitting a report to Congress no later than April 1, 1984 containing (a) recommendations based on its review of the program and (b) recommended adjustments in contributions and benefits which will enable the RRUC program to repay all loans from the Railroad Retirement Account by the end of the year 2000.

## VI. BACKGROUND INFORMATION ON RAILROAD UNEMPLOYMENT COMPENSATION

The railroad unemployment compensation (RRUC) system has been in existence since 1938. Railroad workers were initially covered by the unemployment provisions of the Social Security Act of 1935. The Railroad Unemployment Insurance Act (Pub. L. 75–722) was passed in 1938 to provide a uniform unemployment insurance system for all railroad workers, regardless of the state in which they worked or lived. This was done largely because of administrative problems at that time in handling claims for railroad workers who earned wages in a number of different States and as a result of the railroad unions' desire that individuals throughout the industry be treated the same for purposes of unemployment compensation.

### Benefits and Eligibility Requirements

A worker must have at least $1,000 of creditable, railroad earnings in the base year to qualify for RRUC benefits. In addition, if the worker has not worked in the railroad industry previously, he must have railroad earnings in at least 5 months of the base year. (The base year is the calendar year before the beginning of the benefit year, which begins on July 1 for all claimants.) The first $400 of railroad earnings in each month are creditable toward the qualifying earnings requirement. Up to $775 per month in the base year is creditable toward the maximum benefit.

An unemployed worker that meets the qualifying requirements can receive RRUC benefits for each "day of unemployment." An individual, however, cannot receive benefits for more than five days of unemployment in any week. In order to receive a daily benefit, a worker must be able to work and be available for railroad work. He must also register for work at the railroad employment office.

A qualified, unemployed railroad worker may receive a daily unemployment compensation benefit equal to 60 percent of his last daily rate of pay in the base year, up to a maximum of $25. The minimum daily benefit is $12.70. With the 5 day limitation on receipt of benefits in any week, the weekly RRUC benefit ranges from $63,50 to a maximum of $125 (5 times the $25 daily payment). The weekly maximum has been $125 since 1976.

The nominal average weekly benefit amount has grown in spurts from $8 in 1940 to $125 in 1982. The average weekly benefit amount in constant 1982 dollars, however, has declined by 37 percent, from a peak of $191 in 1975 to $125 in 1982. Moreover, the 1982 level is lower than the constant dollar level as long ago as 1958 when it was $138.

The program offers "normal" benefits and three categories of "extended" benefits. The duration of benefits varies by worker.

Qualified workers can receive normal benefits for up to 130 days or 26 weeks, but the total may not exceed their creditable wages in the base year. Three groups of workers may get extended benefits:

(1) Workers with at least 15 years of railroad service may get up to 130 additional days, or up to an additional 26 weeks of benefits beyond the normal 26 weeks;

(2) Workers with at least 10 but fewer than 15 years of railroad service may receive up to 65 additional days or 13 additional weeks; and

(3) Under Public Law 98–8, commonly called the "jobs bill," workers with fewer than 10 years of service may receive 50 additional days or 10 additional weeks of benefits through June 30, 1983. Unlike the other payroll financed RRUC benefits, the Federal general fund finances the extended benefits for workers with fewer than 10 years of service.

TABLE 1.—PERMANENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT COMPENSATION PROGRAM AS OF JUNE 30, 1983

| | |
|---|---|
| Qualifying Wages | $1,000. |
| Daily Benefit Rate: | |
| Basic Rate | 60 percent of Daily Rate of Pay. |
| Maximum | $25.00. |
| Minimum Guarantee | $12.70. |
| Maximum Normal Benefits: | |
| For a one week period | $125.00. |
| For Benefit Year | |
| Duration | 130 Compensable Days. |
| Amount | $3,250.[1] |
| Maximum Extended Benefits: [2] | |
| 10–14 Years' Service: | |
| Duration | 65 Compensable Days. |
| Amount | $1,625. |
| 15 or More Years' Service: | |
| Duration | 130 Compensable Days. |
| Amount | $3,250. |

[1] Not to exceed the employee's taxable earnings in the base year counting earnings up to $775 a month.
[2] Public Law 98–8 provides temporary supplemental benefits for up to 10 additional weeks through June 30, 1983 for workers with less than 10 years of service.

Source: U.S. Railroad Retirement Board. Handbook on Railroad Retirement and Unemployment Insurance Systems. January 1982. p. V–6, (processed).

The average duration of benefits fluctuates closely with the unemployment rate. From 1940 to 1982, it ranged from 7.2 to 15.3 weeks and averaged 10.4 weeks.

In 1946, a program of cash sickness benefits was established for railroad workers as part of the unemployment compensation system. Sickness benefits are financed out of the same employer paid payroll taxes used to finance unemployment compensation benefits. A qualified railroad worker may receive sickness benefits if he files a "statement of sickness" signed by a doctor within 10 days of the first day for which a day of sickness is claimed.

A rail worker who is unemployed due to a strike legally authorized under the Railway Labor Act of 1926 can receive unemployment compensation benefits after a 7 day waiting period. Unemployment benefits cannot be paid to individuals participating in a strike that is in violation of the Railway Labor Act, and is there-

fore "illegal." Individuals who are unemployed due to an "illegal" strike, but who are not actually participating in the strike, are eligible for unemployment compensation benefits and are not subject to any special waiting period.

Total expenditures for unemployment and sickness payments reached $346 million in 1982, which was 2.8 percent of total wages paid by the industry that year. This compares to a peak of 5.2 percent in 1959. The 2.8 percent of total wages paid out in 1982 closely resembles the figures from previous recessions, such as 2.6 percent in 1950 and 1954, 2.2 percent in 1957, and 2.5 percent in 1976. Since the beginning of sickness benefits, unemployment benefits have composed about two-thirds of total payments. Benefit payments for unemployment alone in 1982 was roughly 2.4 percent of total wages.

Benefit payments vary directly with the insured unemployment rate, covered employment, average weekly benefit amount, and average duration of benefits. The insured unemployment rate is the percentage of workers covered under the RRUC program who are drawing benefits at a particular point in time. The railroad insured unemployment rate has been high and volatile since the beginning of the RRUC program, averaging 17 percent. Since 1946 it has ranged from a relatively high 7 percent to an astronomical 38 percent.

Changes in covered employment have short-run and long-run effects on the RRUC program. In the short run, when layoffs cause employment to decline, the insured unemployment rate and benefits paid increase. In the long run, when employers have fewer workers to layoff, benefits decline and the program shrinks. Since the peak of 1,680,000 workers in 1945, railroad employment has declined by over 70 percent to 438,000 in 1982. The decline has recently proceeded, however, at a lower rate. Two-thirds of this decline occurred in the 16 years between 1945 and 1961. In the 21 years since then, the remaining one-third of the decline occurred. In other words, the average annual rate of decline before 1961 was 53,000, but after 1961 it was 19,000.

## Taxes

The railroad unemployment and sickness benefit program is financed by payroll taxes paid by railroad employers. The employees themselves do not contribute. Since 1959, the taxable earnings base has been the first $400 of each employee's monthly earnings.

The payroll tax rate is determined from a schedule in the Railroad Unemployment Insurance Act and may vary from 0.5 percent to 8 percent. This method of financing is, in effect, an experience rating plan on an industry-wide basis. For any particular calendar year, the tax rate depends on the balance in the Railroad Unemployment Insurance Account, including the balance in the Railroad Unemployment Insurance Administration Fund, on the preceding September 30, as shown in the following schedule:

| Balance to credit of Railroad Unemployment Insurance Account on September 30 | Rate for next calendar year |
|---|---|
| $300,000,000 or more | 0.5 percent |
| $200,000,000 or more but less than $300,000,000 | 4.0 percent |

| Balance to credit of Railroad Unemployment Insurance Account on September 30 | Rate for next calendar year |
|---|---|
| $100,000,000 or more but less than $200,000,000 | 5.5 percent |
| $50,000,000 or more but less than $100,000,000 | 7.0 percent |
| Less than $50,000,000 | 8.0 percent |

Railroad unemployment taxes are collected by the Railroad Retirement Board. Of each year's tax receipts, an amount equal to 0.5 percent of taxable payroll is set aside for administration. As a result, annual appropriations by Congress for administration of the unemployment and sickness program are not required. Excess funds allocated but not needed for administration are transferred to the Railroad Unemployment Insurance Account at the end of such fiscal year.

The Railroad Unemployment Insurance and Railroad Administration Accounts are part of the Federal Unemployment Trust Fund. This trust fund has 53 State UC program accounts, 4 Federal accounts, and the 2 railroad accounts.

Despite occasional increases in the tax rates and taxable wage base, taxes and reserves have not covered RRUC unemployment and sickness benefit payments in 18 of the last 23 years. The tax rate on taxable wages increased to 8 percent in 1977 and 1978; dropped to 7.0 percent in 1979 and to 5.5 percent in 1980; and rose to 8.0 percent in 1981 and 1982. This monthly taxable wage base was increased from $300 to $350 in 1954 and to $400 in 1959. It has not been increased since 1959. As a result, the taxable wage base in constant 1982 dollars has declined dramatically. The monthly taxable wage base would have been around $2,000 in 1982 if Congress had maintained the real value of the $300 taxable wage base in effect in 1940. In other words, the industry has taxed progressively less of total annual wages paid. The ratio of taxable wages to total wages has declined from 99 percent in 1940 to only 19 percent in 1982.

Since 1959, the railroad unemployment trust fund has been able to borrow funds from the railroad pension fund when employer taxes have not been sufficient to cover the costs of unemployment and sickness benefits. In the past, borrowed funds have been repaid. The RRUC program became insolvent for the first time in 1960 after a long decline from peak reserves of nearly 18 percent of total annual wages in 1949. By 1963, it owed the retirement account $312 million, or 5.8 percent of total annual wages paid in the industry that year. The program gradually recovered during the 1960s until it had positive reserves again in 1974. Thereafter, the program became insolvent again in 1976 through 1978, 1981, and 1982.

A rapid decline over the past two years in railroad employment has resulted in substantial borrowing from the pension system. By October 1, 1983, it is estimated that the RRUC program will owe the railroad pension system $650 million. This is about 6 percent of total wages projected to be paid in the industry that year, which would put it in about the same financial situation it was in at the end of 1963. However, between October 1, 1983 and October 1, 1988, an estimated additional $1.2 billion will have to be borrowed by the RRUC system. In other words, it is projected that the RRUC program will owe the retirement account upwards of $1.8 million by

the end of fiscal year 1988. Furthermore, under present tax and benefit provisions, current estimates indicate that at no point in the foreseeable future will the RRUC program be in a position to begin repaying any of this debt. It appears as though the financial status of the program has deteriorated far beyond the situation in 1963, and that major changes will have to be made to restore it to a solvent basis.

### H.R. 1646, as Reported by the Committee on Energy and Commerce

Section 302 of H.R. 1646, as reported by the Committee on Energy and Commerce, would terminate the authority for the RRUC program to borrow funds from the railroad retirement account. In place of this, the bill would establish authority for the RRUC program to borrow from the Federal Unemployment Account. This is the account from which States borrow when they have insufficient funds to pay State unemployment compensation benefits. States must pay an interest charge on these borrowed funds. In addition, employers in all States pay a Federal unemployment tax (FUTA), which is automatically increased in a State that does not repay its Federal unemployment loans after a specified period of time. Under H.R. 1646, the RRUC system would be allowed to borrow funds from the Federal unemployment account like a State, but it is specifically exempted from any of the repayment provisions that apply to borrowing States. In other words, there is no mechanism in the bill for the repayment of these loans.

H.R. 1646, as reported by the Committee on Energy and Commerce, makes no changes in the law regarding the employer paid railroad unemployment payroll tax or in the amount or duration of benefits paid under the RRUC program.

## VII. GENERAL DISCUSSION OF UNEMPLOYMENT COMPENSATION AMENDMENTS

*Sections 231 and 232: Imposition of Tax on Rail Wages to Repay Loans to the Railroad Unemployment Insurance System*

Under current law, there are no specific requirements or procedures for the repayment of funds the RRUC program borrows from the railroad retirement account. In general, in the past loans have been repaid whenever, and to the extent, RRUC program tax receipts in a year exceed that year's benefit, administration and debt service costs.

Section 231 and 232 establish, as part of the Federal Unemployment Tax Act (FUTA), a railroad unemployment repayment tax. This repayment tax would operate similarly to the FUTA tax that is paid by non-railroad industries in States with overdue Federal unemployment loans. Beginning on July 1, 1986, rail employers would pay a tax of 2.0 percent on the first $7,000 in annual wages paid to each employee. This tax would increase by 0.3 percent on each subsequent January 1, up to a maximum of 5.0 percent, until all outstanding loans (principal and interest) from the rail retirement account have been repaid. Tax would expire on October 30, 1990. Revenue raised by this repayment tax could be used only for the repayment of loans the RRUC programs has received from the railroad retirement account.

The purpose of this repayment tax is to provide a procedure that will insure the repayment of all loans from the retirement account. A separate repayment tax is necessary because of the large debt that exists at the current time and the projections indicating that this debt will continue to grow. Even with the 50 percent increase in the taxable wage base provided in section 251 of the Committee amendments, current estimates indicate that annual RRUC taxes will be less than annual benefit, administrative and debt service expenses for the next several years. These estimates show that, without some kind of a special repayment tax, at no point in the near future will the RRUC program be able to begin repaying outstanding loans.

The effective date of the repayment tax is delayed until July 1, 1986, and the tax is allowed to expire September 30, 1990, in order to demonstrate to rail management and labor that the Committee will give careful consideration to any alternative mechanism for the repayment of RRUC retirement account loans, or any modifications in the repayment tax, recommended in the report of the RRUC Committee established by section 413 of these amendments. Equally important, the imposition of the repayment tax contained in this section demonstrates the intent of the Committee on Ways and Means to insure and, if necessary, provide for the repayment of all loans from the retirement account. Should the RRUC Com-

mittee established by section 413 fail to provide an acceptable alternative procedure for the repayment of outstanding loans, it is the intent of the Committee on Ways and Means to make the repayment tax contained in this section permanent, as well as make other necessary modifications that will assure repayment of all RRUC debts by the end of the year 2000.

*Section 241: Taxation of Sick Pay Paid Under Railroad Unemployment Insurance Act*

Under present law, amounts received by an employee through accident or health insurance for personal injuries or sickness, other than reimbursements for medical expenses, generally are includible in gross income if the amounts (1) are attributable to contributions by the employer that were not includible in the employee's gross income or (2) are paid by the employer. Sick pay benefits received by an employee under the Railroad Unemployment Insurance Act, however, are not includible in gross income under present law. These benefits, however, are subject to the payroll tax under the Railroad Retirement Tax Act.

The bill provides that benefits paid to an employee under the Railroad Unemployment Insurance Act for days of sickness are includible in the employee's gross income under the same rules generally applicable to amounts received by employees through accident or health insurance. This provision does not apply if the sickness is the result of an on-the-job injury. This provision is effective for benefits received after December 31, 1983.

Employees generally pay income tax on amounts received for personal injuries or sickness, since these amounts generally substitute for wages, which are also taxable. The committee does not believe that it is appropriate that railroad employees continue to benefit from a complete exclusion of sick pay from the income tax, a provision which treats railroad employees more favorably than similarly situated employees in all other sectors of the economy.

*Section 251: Increase in Monthly Wage Base*

The railroad unemployment and sickness benefit program is financed by payroll taxes paid by railroad employers. The employees themselves do not contribute. The taxable earnings base has been the first $400 of each employee's monthly earnings since 1959. The tax rate is determined from a schedule in the law and may vary from 0.5% to 8%. For any particular calendar year, the tax rate depends on the balance in the railroad unemployment insurance account, including the balance in the railroad unemployment insurance administration fund, on the preceding September 30, as shown above in the tax rate schedule contained in Section V of this report: "Background Information on Railroad Unemployment Compensation."

The Committee amendment would increase the amount of monthly earnings subject to the RRUC tax (the taxable wage base) to $600, effective January 1, 1984. The Congressional Budget Office estimates that this will increase RRUC revenues by $320 million during the period from implementation through fiscal year 1988.

One of the reasons for the current financial insolvency of the RRUC program is that the taxable wage base has not been in-

creased since 1959. As discussed in the "Background" section, the percent of total wages subject to the RRUC tax has declined significantly over the history of the program. The increase in the taxable wage base contained in this section is an obvious and essential first step in restoring solvency to the RRUC program.

A joint rail labor/management agreement dated May 25, 1983 recommended that the RRUC taxes be increased by raising the taxable monthly base to $600, effective July 1, 1984. The Committee made this increase effective six months earlier (January 1, 1984) than the rail labor/management recommendation in order to begin reducing as soon as possible the amount of funds the RRUC program will have to borrow from the retirement account.

*Section 302: (a) Deletion of Authority for the Railroad Unemployment Compensation Program to Borrow from the Federal Unemployment Trust Fund; and (b) Continuation of Authority to Borrow from the Railroad Retirement Account Until September 30, 1985*

(a) Under present law, the RRUC program does not have the authority to borrow from the Federal Unemployment Trust Fund. Section 302 of H.R. 1646, as reported by the Committee on Energy and Commerce, would have established the authority for the RRUC program to borrow from the unemployment account in the Federal Unemployment Trust Fund as necessary to pay RRUC benefits. This is the Federal account from which States with insufficient funds to pay State unemployment compensation benefits may borrow. Section 302 of H.R. 1646 would allow the RRUC program to borrow Federal unemployment funds like a State; however, the RRUC program would not be subject to any of the repayment provisions that apply to borrowing States. It would be left up to the Railroad Retirement Board to determine when repayments would be made.

The Committee amendment would delete section 302 from the bill, thereby deleting the authority for the RRUC program to borrow from the Federal Unemployment Trust Fund. It is the position of the Committee that legislation establishing authority to borrow Federal unemployment funds must include specific repayment procedures. Furthermore, such borrowing authority should not be provided until there has been sufficient time and opportunity for rail labor, rail management and the Congress to consider alternative measures for dealing with the insolvency of the RRUC program, including the appropriateness and feasibility of merging the current RRUC program with the Federal/State unemployment compensation system.

(b) Current law provides that the RRUC program may borrow from the railroad retirement account as necessary to meet RRUC program costs. Interest on borrowed retirement funds is charged at approximately the same rate the Treasury pays on funds in the railroad retirement account.

The borrowing authority was first established in July 1959, and sums have been borrowed in subsequent years in which RRUC benefit payments exceeded RRUC tax revenues and reserves. The railroad retirement account was repaid whenever excess RRUC funds were available. After adoption of amendments in 1963, which

were designed to improve the financing of the RRUC system, the indebtedness to the railroad retirement account declined from a peak level of nearly $330 million during the following year and was liquidated in September 1973. In addition to the principal owed, interest payments totaling over $92 million were made from the RRUC account to the railroad retirement account. Subsequent to 1973, the RRUC account balance has fluctuated into and out of the red. As of September 1981, the RRUC account was substantially in debt to the retirement fund, with outstanding loans of $115 million. It is estimated that this debt will increase to $650 million by the end of fiscal year 1983 and to $1.8 billion by the end of fiscal year 1988.

The Committee amendment would allow the RRUC program to continue to borrow from the railroad retirement fund, as under current law, but only until September 30, 1985. It is the position of the Committee that this borrowing authority should be terminated because of the substantial drain it places on the railroad pension fund and because actions must be taken that will restore the RRUC program to a solvent position. However, because RRUC benefit paymenst, administrative costs and debt service will continue to exceed RRUC employer tax receipts over the next several years, in lieu of an alternative financing mechanism or source of borrowing, it is necessary to allow the program to continue to borrow from the retirement fund for the immediate future. It is the Committee's position that this borrowing authority should continue until September 30, 1985 so that rail labor, rail management and the Congress will have sufficient time to consider alternative measures that will both restore the RRUC program to a solvent status and allow it to repay in a reasonable period of time all funds it has borrowed from the retirement account.

*Section 411: Conforming Changes in Qualifying Earnings Requirement*

Under current law, in order to qualify for RRUC benefits, a worker must have earned "creditable compensation" of at least $1,000 in the base year. Only wages subject to the RRUC tax are counted as "creditable compensation," which means a worker can count no more than $400 of monthly earnings in meeting the earnings qualification for RRUC benefits. The $1,000 level was established in conjunction with the $400 monthly taxable wage base so that a worker would have to have employment in at least three months in order to qualify for RRUC benefits. (In addition to the $1,000 qualifying earnings requirement, a new employee must have some employment in at least 5 months of the first year worked in the railroad industry in order to draw benefits in the following benefit year.)

The Committee amendment increases the qualifying earnings requirement to $1,500 in a base year. This 50 percent increase in the qualifying earnings requirement conforms to the 50 percent increase in monthly wages subject to the RRUC tax contained in section 251 of the Committee amendments. Increasing the monthly taxable wage base from $400 to $600 means that $600 of monthly wages will now be "creditable compensation," or wages that will count toward the qualifying earnings requirement. Increasing the

earnings requirement from $1,000 to $1,500 will have the effect of requiring that a worker have employment in at least three months in order to qualify for RRUC benefits, as under current law.

*Section 412: Increase in the Waiting Period Before Payments of RRUC Benefits During a Strike*

Under current law, if a railroad worker is unemployed because of a legally authorized strike, he or she must serve a waiting period before benefits can be paid. The waiting period is the employee's first 7 days of unemployment due to the strike, whether or not the employee's craft is on strike. If the strike continues beyond 14 days, the employee is paid unemployment benefits for each day in excess of 4 in each subsequent 14-day registration period. If the strike is in violation of the Railway Labor Act, and is therefore an "illegal" strike, no unemployment benefits are payable to employees participating in the strike. However, employees who are not participating in an illegal strike, but who are unemployed because of the strike, can qualify for RRUC benefits without a waiting period.

The Committee amendment increases the waiting period before payment of RRUC benefits during *any* strike from seven (7) to fourteen (14) days. This waiting period will be applied to all workers who are unemployed due to a strike. If the strike is in violation of the Railway Labor Act, and is therefore illegal, no unemployment benefits will be paid to the employees participating in the strike, as under current law. Under the Committee amendment, however, those workers who are not participating in an illegal strike, but who are unemployed because of such a strike, will be subject to the same 14-day waiting period that is applied in a legal strike. Under current law, such workers are not subject to any waiting period.

The joint rail labor/management agreement of May 25, 1983 recommended the waiting period for all strikes be increased to 14 days as contained in the Committee amendment; however, it recommended that these changes take effect July 1, 1984. The Committee amendment makes these changes effective six months earlier than recommended (January 1, 1984) in order to conform to the implementation of the increase in the taxable wage base six months earlier than was recommended in the rail labor/management agreement.

*Section 413: Establishment of Railroad Unemployment Compensation Committee*

The Committee amendment would establish a Railroad Unemployment Compensation (RRUC) Committee for the purpose of reviewing and making timely recommendations to Congress concerning (1) alternative measures that address the current insolvency of the RRUC program and (2) specific adjustments in contributions and benefits that will assure the repayment of funds that the RRUC program has borrowed from the rail pension fund by the end of the year 2000.

The membership of this Committee will be agreed to and jointly appointed by railroad labor and railroad management. It must consist of five (5) members: two (2) labor representatives, two (2) management representatives, and one (1) public member who must not

be in the employment of or pecuniarily or otherwise interested in any railroad employer or any organization of railroad employees.

The RRUC Committee is directed to review all aspects of the railroad unemployment and sickness insurance program including, but not limited to, benefit levels, experience rating, debt repayment and interest on debt, waiting period for unemployment benefits and qualifying requirements, and alternatives to the RRUC program such as covering railroad employees under the Federal/State unemployment compensation system.

The RRUC Committee must submit a report to Congress no later than April 1, 1984 containing recommendations based on its review of the current program. This report must contain recommended adjustments in contributions and benefits which will enable the RRUC program to repay all loans from the Railroad Retirement Account before December 31, 2000. Should the RRUC Committee fail to provide Congress with an acceptable procedure for the repayment of all outstanding loans from the retirement account, the Committee will report legislation making changes in RRUC taxes and recommending changes in RRUC benefits that will provide for the repayment of all loans by the end of the year 2000.

## VIII. ACTUARIAL ANALYSIS OF EFFECTS ON THE RETIREMENT SYSTEM OF THE BILL AS REPORTED

The following memorandum was prepared by the Office of the Actuary of the Railroad Retirement Board. This memorandum is self-explanatory and gives some indication of the ability of the Railroad Retirement System to pay full benefits in a timely manner under two different employment assumptions. Employment under the two assumptions are shown below:

| | Employment assumption (thousands) | |
|---|---|---|
| | Best guess | Pessimistic |
| Calendar year: | | |
| 1983 | 385 | 365 |
| 1984 | 370 | 350 |
| 1985 | 360 | 335 |
| 1986 | 355 | 320 |
| 1987 | 350 | 305 |
| 1988 | 345 | 290 |
| 1989–92 | 340 | 290 |

AMOUNT AVAILABLE FOR BENEFIT PAYMENTS UNDER H.R. 1646 AS MARKED UP BY THE HOUSE WAYS AND MEANS COMMITTEE (CONTAINS 30/60 PROVISION AS REVISED BY MAY 25, 1983, LABOR/MANAGEMENT AGREEMENT)

[Dollar amounts in millions]

| Calendar year | Projected income [1] | Projected outgo [2] | Change in amount available for benefit payments as of Dec. 31 | Amount available for benefit payments as of Dec. 31 [3] | Previous Column as percentage of next year's benefits |
|---|---|---|---|---|---|
| "Best-guess" employment levels: | | | | | |
| 1983 | 5,046 | 5,397 | −533 | [4] 1,386 | 26 |
| 1984 | 7,818 | 5,444 | 80 | 1,466 | 26 |
| 1985 | 8,497 | 7,792 | 593 | 2,059 | 35 |
| 1986 | 9,120 | 8,027 | 1,016 | 3,075 | 51 |
| 1987 | 8,716 | 8,330 | 386 | 3,461 | 55 |
| 1988 | 9,102 | 8,674 | 444 | 3,905 | 60 |
| 1989 | 9,263 | 8,947 | 347 | 4,252 | 63 |
| 1990 | 9,663 | 9,268 | 406 | 4,658 | 66 |
| 1991 | 10,018 | 9,560 | 419 | 5,077 | 70 |
| 1992 | 10,404 | 9,852 | 509 | 5,586 | NA |
| "Pessimistic" employment levels: | | | | | |
| 1983 | 4,906 | 5,397 | −720 | [4] 1,199 | 22 |
| 1984 | 7,794 | 5,444 | −56 | 1,143 | 20 |
| 1985 | 8,453 | 7,813 | 432 | 1,575 | 27 |
| 1986 | 9,004 | 8,142 | 768 | 2,343 | 39 |
| 1987 | 8,567 | 8,497 | 44 | 2,387 | 38 |
| 1988 | 8,896 | 8,904 | −13 | 2,374 | 36 |
| 1989 | 9,151 | 9,257 | −87 | 2,287 | 34 |
| 1990 | 9,510 | 9,589 | −69 | 2,218 | 32 |
| 1991 | 9,830 | 9,893 | −97 | 2,121 | 29 |



H.Rept.98-30---4

## AMOUNT AVAILABLE FOR BENEFIT PAYMENTS UNDER H.R. 1646 AS MARKED UP BY THE HOUSE WAYS AND MEANS COMMITTEE (CONTAINS 30/60 PROVISION AS REVISED BY MAY 25, 1983, LABOR/MANAGEMENT AGREEMENT)—Continued

[Dollar amounts in millions]

| Calendar year | Projected income [1] | Projected outgo [2] | Change in amount available for benefit payments as of Dec. 31 | Amount available for benefit payments as of Dec. 31 [3] | Previous Column as percentage of next year's benefits |
|---|---|---|---|---|---|
| 1992 | 10,181 | 10,203 | −59 | 2,062 | NA |

NA—Not available.

[1] Excludes repayment of loans from the Railroad Unemployment Insurance Account. Includes appropriations for windfall shortfall in 1984, 1985, and 1986, and financial interchange advances in all years.

[2] Excludes money lent to the Railroad Unemployment Insurance Account. Includes repayment of financial interchange advances in 1985 and later.

[3] Recognizes that money lent to the Railroad Unemployment Insurance Account and not repaid is not available for benefit payments.

[4] Includes unused borrowing authority.

## IX. VOTE OF THE COMMITTEE AND OTHER MATTERS TO BE DISCUSSED UNDER THE RULE OF THE HOUSE

In compliance with clause 2(l)(2)B of Rule XI of the Rules of the House of Representatives, your Committee states that the bill was approved by voice vote.

In compliance with clause 2(l)(3)(A) of Rule XI, your Committee reports that the need for legislation to assure the financial stability and solvency of the Railroad Retirement and Unemployment Compensation Systems has been confirmed by oversight investigations conducted by your Committee's Subcommittees on Social Security and Public Assistance and Unemployment Compensation.

In compliance with clause (2)(l)(3)(D) of Rule XI, your Committee states that no oversight findings or recommendations have been submitted to your Committee on Government Operations with respect to the subject matter contained in the bill.

In compliance with clause (2)(l)(4) of Rule XI, your Committee estimates that enactment of the bill will reduce inflationary pressures on the national economy. H.R. 1646 as reported, will increase revenue by approximately $4 billion from fiscal years 1984 to 1989. The Committee believes that this reduction in the fiscal year 1984 budget deficit as well as the additional reductions in fiscal years 1985 to 1989 will contribute to a reduction in the inflationary pressures in the national economy.

In compliance with clause 2(l)(3)(B) of Rule XI, your Committee states that the bill reduces tax expenditures by approximately $1 billion between fiscal year 1984 and fiscal year 1989 and that a discussion of budgetary authority is contained in the report of the Congressional Budget Office.

In compliance with clause 7(a) of Rule XIII, the following statement is made relative to the budget effects of the provisions of H.R. 1900, as reported by your Committee:

With respect to the provisions contained in the bill, your Committee states that it agrees with the estimates of the Congressional Budget Office. These estimates are presented for fiscal years 1984 to 1989 for the unified budget.

In compliance with clause 2(l)(3)(C) of rule XI, your Committee states that the Congressional Budget Office has examined H.R. 1900, as reported by the Committee and has submitted the following statements:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, D.C. June 27, 1983.*

Hon. DAN ROSTENKOWSKI,
*Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN. The Congressional Budget Office has prepared the attached revenue estimates for amendments to H.R. 1646, the Railroad Retirement Solvency Act of 1983, as ordered reported by the House Committee on Ways and Means on June 23, 1983.

Should the committee so desire, we would be pleased to provide further details on these estimates.

Sincerely,

JAMES BLUM
(For Alice M. Rivlin, Director.)

CONGRESSIONAL BUDGET OFFICE

The amendments to H.R. 1646, as reported by the Committee on Ways and Means, would increase revenue to the railroad retirement trust funds by increasing tax rates, accelerating the employer tax deposit schedule, taxing railroad retirement and sick pay benefits, and increasing railroad unemployment insurance taxes. The increase in unified budget revenue resulting from the amendments to H.R. 1646 appear in Table 1.

A section by section explanation of the revenue estimates for this bill follows. Table 2 gives the provision by provision estimates. These revenue estimates are for the bill as amended in committee, although draft language for the amendments have not been received.

TABLE 1.—TOTAL CHANGE IN UNIFIED BUDGET REVENUE AS THE RESULT OF H.R. 1646, THE RAILROAD RETIREMENT SOLVENCY ACT OF 1983 AS AMENDED BY THE COMMITTEE ON WAYS AND MEANS

[By fiscal year, in millions of dollars]

| | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 |
|---|---|---|---|---|---|---|
| Revenues | 0 | 140 | 636 | 1,007 | 1,044 | 1,056 |

The amended version of H.R. 1646 reported by the Committee on Ways and Means relative to the version of H.R. 1646 reported by the Committee on Energy and Commerce on March 3, 1983 raises an additional $48 million in fiscal year 1984, $219 million in fiscal year 1985, $388 million in fiscal year 1986, $204 million in fiscal year 1987, and $181 million in fiscal year 1988. The total for the five years equals $1,040 million. The total includes only those amendments to H.R. 1646 made by the Committee on Ways and Means and does not include technical reestimates of provisions in the earlier version of H.R. 1646 (see below):

TABLE 2.—ESTIMATED REVENUE CHANGES TO THE UNIFIED FEDERAL BUDGET RESULTING FROM PROVISIONS IN H.R. 1646, THE RAILROAD RETIREMENT SOLVENCY ACT OF 1983, AS AMENDED BY THE COMMITTEE ON WAYS AND MEANS

[By fiscal year, in millions of dollars]

| Revenue increases | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 |
|---|---|---|---|---|---|---|
| Annualization of tier I wage base | 0 | 0 | 72 | 26 | 24 | 26 |
| Tax on employees [1] | 0 | 16 | 127 | 218 | 251 | 261 |
| Tax on employers [1] | 0 | 17 | 140 | 313 | 359 | 371 |
| Tax railroad retirement benefits | 0 | 50 | 171 | 180 | 188 | 196 |
| Tax windfall benefits | 0 | 13 | 42 | 40 | 38 | 37 |
| Tax railroad sick pay | 0 | 8 | 11 | 11 | 11 | 11 |
| Accelerate employer tier I and II deposit schedule | 0 | 0 | 0 | 133 | 41 | 15 |
| Increase unemployment tax base | 0 | 36 | 73 | 72 | 70 | 69 |
| Impose a railroad unemployment insurance repayment tax | 0 | 0 | 0 | 14 | 62 | 70 |
| Total revenue changes | 0 | 140 | 636 | 1,007 | 1,044 | 1,056 |

[1] Includes effect of annualization of tier II wage base.

## REVENUE INCREASES

### *Increase in Tier II Tax Rates and Annualization of Tier I and II Wage Bases*

These provisions increase the Tier II railroad industry payroll tax rates on employees, employers and employee representatives. The employee Tier II tax rate increases .75 percent July 1, 1984, .75 percent January 1, 1985, and .75 percent January 1, 1986. The employer Tier II tax rate increases 1 percent on July 1, 1984, 1 percent January 1, 1985, and 1 percent January 1, 1986. Another amendment annualizes the Tier I and II wage bases (see below) and lowers the employer Tier II tax rate 0.5 percent effective January 1, 1986. The employee and employer tax increases under current law and under provisions of the bill are shown below:

TIER II EMPLOYEE AND EMPLOYER TAX RATES UNDER CURRENT LAW AND UNDER H.R. 1646

[Calendar year]

| | Employee | | Employer | |
|---|---|---|---|---|
| | Current law | Proposed [1] | Current law | Proposed [2] |
| 1984 | 2.00 | 2.75 | 11.75 | 12.75 |
| 1985 | 2.00 | 3.50 | 11.75 | 13.75 |
| 1986 | 2.00 | 4.25 | 11.75 | 14.25 |
| 1987 | 2.00 | 4.25 | 11.75 | 14.25 |
| 1988 | 2.00 | 4.25 | 11.75 | 14.25 |

[1] The tax increase scheduled for 1984 is effective July 1. Thereafter the tax rates are effective January 1 of each year, 1985–1988.
[2] Effective Jan. 1, 1986, the employer tier II tax is reduced by 0.5 percent.

These provisions are expected to add $33 million in Tier II revenues in fiscal year 1984, $267 million in 1985 and $2.1 billion over the 1984 to 1988 period (Table 2). The estimates assume CBO's current economic assumptions and the Railroad Retirement Board's path A employment assumptions. These project railroad employment to be at an annual average level of 385,000 in calendar year 1983, 370,000 in 1984, and 345,000 in 1988.

These estimates include the effects of annualizing the Tier II taxable wage base effective January 1, 1985. Currently, the Tier I and Tier II wage bases are determined monthly instead of annually as is the Social Security wage base. Moving to an annual wage base for Tiers I and II increases revenue because the amount of covered wages rise. This means that long-run future benefits for current employees will also rise because benefits are based on covered earnings. In addition, the annualization of the Tier I wage base raises $72 million in fiscal year 1985, $26 million in fiscal year 1986, and $148 million over the period.

A provision in P.L. 98–21, the Social Security Act Amendments of 1983, raises Tier I tax rates. Estimates of the impact of this FICA increase on railroad retirement income (assuming the amounts are allocated to the railroad retirement trust fund) were presented as part of CBO's cost estimate for P.L. 98–21. This increase added an estimated $45 million in railroad revenues in fiscal year 1984 and $61 million in 1988.

The amendments to H.R. 1646 passed by the Committee on Ways and Means moved up the Tier II employee and employer tax rate increase in 1985 and 1986 from July 1 to January 1 in each year. Further, the amendment that requires annualization of the Tier I and Tier II wage bases and reduces the employer Tier II tax rate 0.5 percent on January 1, 1986 are new to H.R. 1646. These amendments are worth an additional $333 million for fiscal year 1984 through fiscal year 1988 relative to the Committee on Energy and Commerce's version of H.R. 1646.

*Acceleration of Employer Tax Deposit Schedule*

Under current law the timing of deposits of tax receipts by railroad employers with the federal government is determined by where the month falls within the quarter. For the first two months of the quarter, the railroad employer is required to deposit tax receipts with the federal government by the middle of the following month. For the last month of the quarter, the requirement for depositing taxes is by the end of the following month. For example, the current deposit pattern for the first quarter requires that January and February receipts are deposited by the middle of February and March, respectively. March taxes are deposited by the end of April.

This provision speeds up the deposit of Tier I and Tier II railroad retirement taxes. Railroad employers would be required to deposit taxes with the federal government on the same basis as employers covered by the Federal Contribution Tax Act (FICA). Further, large employers would be required to wire their deposits of railroad retirement taxes to the federal government within ten days of the end of their payroll period. The provision is effective January 1, 1986.

The revenue increase equals $78 million for Tier I for the period from fiscal year 1984 through 1988 and $111 million for Tier II over the same period. The estimates are based on CBO's economic assumption and the Railroad Retirement Board's Path A employment assumptions. This is a new provision to H.R 1646.

*Taxation of Railroad Retirement Benefits*

This provision would tax Tier II railroad benefits in a manner similar to private pensions. The tax would only apply to employer contributions. It is estimated that this provision would raise $50 million in fiscal year 1984 revenues, $171 million in 1985 and $785 million over the five year period.

The windfall benefits now paid to some railroad annuitants would be taxed as private pensions. The increase in unified budget fiscal year receipts equals $13 million in fiscal year 1984, $42 million in fiscal year 1985, and $170 million from fiscal year 1984 through fiscal year 1988.

The Treasury will transfer money monthly from the general fund to the railroad retirement trust fund based on the liability estimates—not the fiscal year receipt—of taxing Tier II benefits and windfall benefits. This transfer increases the income of the railroad retirement trust funds by $877 million due to taxation of Tier II benefits and $188 million due to the taxation of windfall benefits over the five-year period. In addition, if before the end of fiscal year 1988, $877 million (the estimate for the five-year period shown above) is transferred to the railroad retirement trust fund as a result of taxing Tier II benefits, the transfer would be discontinued.

These provisions were not changed by the Committee on Ways and Means. However, technical reestimates of these provisions made by the Joint Committee on Taxation (JCT) increases the unified budget estimates for the taxation of Tier II and windfall benefits by $308 million for the period covering fiscal year 1984 through 1988.

A provision in the Social Security Amendments of 1983 (P.L. 98–21) provides for taxation of 50 percent of benefits for individuals with an adjusted gross income of $25,000 and married couples with incomes above $32,000 (with a phase-in provision). These estimates were shown in CBO's cost estimate for H.R. 1900, and are presented below. Tax expenditures would be reduced by equal amounts.

Estimated Additional Unified Budget Revenue From Taxing 50 Percent of Tier I Social Security Equivalent Benefits for Certain High Income Workers

[By fiscal year, in millions of dollars]

| 1983 | 1984 | 1985 | 1986 | 1987 | 1988 |
|---|---|---|---|---|---|
| ..... | 20 | 64 | 74 | 85 | 98 |

*Taxation of Railroad Sick Pay Benefits*

Currently, all forms of sick pay are subject to tax except sick pay benefits for railroad employees. The provision subjects railroad sick pay benefits to taxes except if the sickness is work related. This puts railroad sick pay on the same footing as all other types of sick pay. Taxing railroad sick pay raises $8 million in fiscal year 1984, $11 million in fiscal year 1985, and $52 million from fiscal year 1984 through fiscal year 1988. This is a new provision to H.R. 1646.

*Increase in Railroad Unemployment Insurance Wage Base 50 Percent*

Currently, the railroad unemployment insurance (UI) wage base equals $400 per month. The provision would raise the wage base to $600 per month effective July 1, 1984. The revenue increase equals $36 million in fiscal year 1984, $73 million in fiscal year 1985, $72 million in fiscal year 1986, $70 million in fiscal year 1987, and $64 million in fiscal year 1988. The total for the five years in $320 million. This is a new provision to H.R. 1646.

*Imposition of a Railroad Unemployment Insurance Repayment Tax*

The provision institutes a federal repayment tax on railroad employers effective July 1, 1986. The tax rate equals 2 percent on the first $7,000 of annual wages in calendar year 1986. From thereon, each January 1 the tax rate increases 0.3 percent to a maximum of 5 percent. The revenue raised by this tax will be used to repay the loan that the railroad unemployment fund owes the railroad retirement account. The revenue increase equals $14 million in fiscal year 1986, $62 million in fiscal year 1987, and $70 million in fiscal year 1988. The total revenue increase equals $146 million for the entire period. This is a new provision to H.R. 1646.

## X. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

### RAILROAD RETIREMENT ACT OF 1974

* * * * * * *

#### DEFINITIONS

SECTION 1. For the purposes of this Act—

(a)(1) The term "employer" shall include—

(i) any express company, sleeping-car company, and carrier by railroad, subject to part I of the Interstate Commerce Act;

(ii) any company which is directly or indirectly owned or controlled by, or under common control with, one or more employers as defined in paragraph (i) of this subdivision, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad;

(iii) any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any employer as defined in paragraph (i) or (ii) of this subdivision;

(iv) any railroad association, traffic association, tariff bureau, demurrage bureau, weighing and inspection bureau, collection agency, and any other association, bureau, agency, or organization which is controlled and maintained wholly or principally by two or more employers as defined in paragraph (i), (ii), or (iii) of this subdivision and which is engaged in the performance of services in connection with or incidental to railroad transportation; [and]

(v) any railway labor organization, national in scope, which has been or may be organized in accordance with the provisions of the Railway Labor Act, as amended, and its State and National legislative committees, general committees, insurance departments, and local lodges and divisions, established pursuant to the constitution or bylaws or such organization[.]; *and*

*(vi) any commuter authority operating commuter service under title V of the Rail Passenger Service Act, if any position of such service was transferred on January 1, 1983, to such authority from the Consolidated Rail Corporation.*

(2) Notwithstanding the provisions of subdivision (1) of this subsection, the term "employer" shall not include—

(i) any company by reason of its being engaged in the mining of coal, the supplying of coal to an employer where delivery is not beyond the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities; and

(ii) any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general diesel-railroad system of transportation, but shall not exclude any part of the general diesel-railroad system of transportation now or herafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Board, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this paragraph. *This paragraph shall not apply to any employer as defined in paragraph (vi) of subdivision (1).*

* * * * * * *

(h)(1) The term "compensation" means any form of money remuneration paid to an individual for services rendered as an employee to one or more employees, or as an employee representative, including remuneration paid for time lost as an employee, but remuneration paid for time lost shall be deemed earned in the month in which such time is lost. A payment made by an employer to an individual through the employer's payroll shall be presumed, in the absence of evidence to the contrary, to be compensation for service rendered by such individual as an employee of the employer in the period with respect to which the payment is made. Compensation earned in any calendar month before 1947 shall be deemed paid in such month regardless of whether or when payment will have been in fact made, and compensation earned in any calendar year after 1946 but paid after the end of such calendar year shall be deemed to be compensation paid in the calendar year in which it will have been earned if it is so reported by the employer before February 1 of the next succeeding calendar year or if the employee establishes, subject to the provisions of section 9, the period during which such compensation will have earned.

(2) An employee shall be deemed to be paid "for time lost" the amount he is paid by an employer with respect to an identifiable period of absence from the active service of the employer, including absence on account of personal injury, and the amount he is paid by the employer for loss of earnings resulting from his displacement to a less remunerative position or occupation. If a payment is made by an employer with respect to a personal injury and includes pay for time lost, the total payment shall be deemed to be paid for time lost unless, at the time of payment, a part of such payment is specifically apportioned to factors other than time lost, in which event only such part of the payment as is not so apportioned shall be deemed to be paid for time lost.

(3) Solely for purposes of determining amounts to be included in the compensation of an employee, the term "compensation" shall also include cash tips received by an employee in any calendar

month in the course of his employment by an employer unless the amount of such cash tips is less than $20.

(4) Tips included as compensation by reason of the provisions of subdivision (3) shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code of 1954 or, if no statement including such tips is so furnished, at the time received Tips so deemed to be paid in any month shall be deemed paid for services rendered in such month.

(5) In determining compensation, there shall be attributable as compensation paid to an employee in calendar months in which he is in military service creditable under section 3(i)(2), in addition to any other compensation paid to him with respect to such months—

(i) for each such calendar month prior to 1968, $160;

(ii) for each such calendar month after 1967 and prior to 1975, $260; and

(iii) for each such calendar month after 1974, the amount which is creditable as such individual's "wages" under the third paragraph of section 209 of the Social Security Act.

(6) Notwithstanding the provisions of the preceding subdivisions of this subsection, the term "compensation" shall not include—

(i) tips, except as is provided under subdivision (3) of this subsection;

[(ii) the voluntary payment by an employer, without deduction from the remuneration of the employee, of any tax now or hereafter imposed with respect to the compensation of such employee;]

[(iii)] *(ii)* remuneration for service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended, and which is performed to carry out the purpose specified in subparagraph (F) or (J), as the case may be;

[(iv)] *(iii)* remuneration earned in the service of a local lodge or division of a railway-labor-organization employer with respect to any calendar month in which the amount of such remuneration is less than $25;

[(v)] *(iv)* remuneration for service as a delegate to a national or international convention of a railway-labor-organization employer if the individual rendering such service has not previously rendered service, other than as such a delegate, which may be included in his "years of service";

[(vi)] *(v)* the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of sickness or accident disability or medical or hospitalization expenses in connection with sickness or accident disability; and

[(vii)] *(vi)* an amount paid specifically—either as an advance, as reimbursement or allowance—for traveling or other bona fide and necessary expense incurred or reasonably expected to be incurred in the business of the employer provided any such payment is identified by the employer either by a separate payment or by specifically indicating the separate amounts where both wages and expense reimbursement or allowance are combined in a single payment.

*(7) The term "compensation" includes any separation allowance or subsistence allowance paid under any benefit schedule provided under section 701 of title VII of the Regional Rail Reorganization Act of 1973 and any termination allowance paid under section 702 of that Act. The total amount of any subsistence allowance paid under a benefit schedule provided pursuant to section 701 of the Regional Rail Reorganization Act of 1973 shall be considered as having been earned in the month in which the employee first timely filed a claim for such an allowance.*

* * * * * * *

ANNUITY ELIGIBILITY REQUIREMENTS

SEC. 2. * * *

* * * * * * *

(c)(1) The spouse of an individual, if—

(i) such individual (A) is entitled to an annuity under subsection (a)(1) and (B) has attained the age of 60 and has completed thirty years of service or has attained the age of 62, and

(ii) such spouse (A) has attained the age of 65, or (B) has attained the age of 60 and such individual has completed thirty years of service, or (C), in the case of a wife, has in her care (individually or jointly with her husband) a child who meets the qualifications prescribed in paragraph (iii) of subsection (d)(1) (without regard to the provisions of clause (B) of such paragraph),

shall, subject to the conditions set forth in subsections (e), (f), and (h), be entitled to a spouse's annuity, if he or she has filed application therefor, in the amount provided under section 4 of this Act.

(2) A spouse who would be entitled to an annuity under subdivision (1) or a divorced wife who would be entitled to an annuity under subdivision (4) if he or she has attained the age of 65 may elect upon or after attaining the age of 62 to receive such annuity, but the annuity in any such case shall reduced by 1/44 for each calendar month that the spouse or divorced wife is under age 65 when the annuity begins to accrue, *except that the annuity of a divorced wife who was previously entitled to a spouse annuity which was reduced under this subdivision shall be reduced by the same percentage as was applicable to the spouse annuity.*

* * * * * * *

(d)(1) The following described survivors of a deceased employee who will have completed ten years of service and will have had a current connection with the railroad industry at the time of his death shall, subject to the conditions set forth in subsections (g)

and (h), be entitled to annuities, if they have filed application therefor, in the amounts provided under section 4 of this Act—

(i) a widow (as defined in section 216 (c) and (k) of the Social Security Act) or widower (as defined in section 216 (g) and (k) of the Social Security Act) of such a deceased employee who has not remarried and who (A) will have attained the age of sixty or (b) will have attained the age of fifty but will not have attained age sixty and is under a disability which began before the end of the period prescribed in subdivision (2), and who, in the case of a widower, was receiving at least one-half of his support from the deceased employee at the time of her death or at the time her annuity under subsection (a)(1) began;

(ii) a widow (as defined in section 216 (c) and (k) of the Social Security Act) of such a deceased employee who has not remarried and who (A) is not entitled to an annuity under paragraph (i), and (B) at the time of filing an application for an annuity under this paragraph, will have in her care a child of such deceased employee, which child is entitled to an annuity under paragraph (iii) (other than an annuity payable to a child who has attained age 18 and is not under a disability);

(iii) a child (as defined in section 216 (e) and (k) of the Social Security Act) of such a deceased employee who (A) will be less than eighteen years of age, or [(B) will be less than twenty-two years of age and a full-time student at an educational institution] *(B) will be less than nineteen years of age and a full-time elementary or secondary school student,* or (C) will, without regard to his age, be under a disability which began before he attained age twenty-two or before the close of a the eighty-fourth month following the month in which his most recent entitlement to an annuity under this paragraph terminated because he ceased to be under a disability, and who is unmarried and was dependent upon the employee at the time of the employee's death;

* * * * * * *

(4) In determining for purposes of this subsection and subdivision (3) of subsection (c) whether an applicant is the wife, husband, widow, widower, child, or parent of a deceased employee as claimed, the rules set forth in section 216(h) of the Social Security Act shall be applied deeming, for this purpose, individuals entitled to an annuity under subsection (c) to be entitled to benefits under subsection (b) or (c) of section 202 of the Social Security Act and individuals entitled to an annuity under paragraph (i) or (ii) of subsection (d)(1) to be entitled to a benefit under subsection (e), (f), or (g) of section 202 of the Social Security Act. For purposes of paragraph (iii) of subdivision (1), a child shall be deemed to have been dependent upon his parent employee if the conditions set forth in section 202(d) (3), (4), and (9) of the Social Security Act are fulfilled. The provisions of paragraph (7) of section 202(d) of the Social Security Act (defining the terms "full-time *elementary or secondary school* student" and [*"educational institution"*] *"elementary or secondary school"*) shall be applied by the Board in the administration of this subsection as if the references therein to the Secretary were references to the Board. A child who attains age [twenty-

two] *nineteen* at a time when he is a full-time *elementary or secondary school* student (as defined in subparagraph (A) of paragraph (7) of section 202(d) of the Social Security Act and without the application of subparagraph (B) of such paragraph) but has not (at such time) completed the requirements for, or received, a [degree from a four-year college or university] *diploma or equivalent certificate from a secondary school (as defined in section 202(d)(7)(c)(i) of the Social Security Act)* shall be deemed (for purposes of determining his continuing or initial entitlement to an annuity under this subsection) not to have attained such age until the first day of the first month following the end of the quarter or semester in which he is enrolled at such time (or, if the [educational institution] *elementary or secondary school* in which he is enrolled is not operated on a quarter or semester system, until the first day of the first month following the completion of the course in which he is enrolled or until the first day of the third month beginning after such time, whichever first occurs).

* * * * * * *

COMPUTATION OF EMPLOYEE ANNUITIES

SEC. 3. (a)(1) The annuity of an individual under section 2(a)(1) of this Act shall be in an amount equal to the amount (before any reduction on account of age and before any deductions on account of work) of the old-age insurance benefit or disability insurance benefit to which such individual would have been entitled under the Social Security Act if all of his or her service as an employee after December 31, 1936, had been included in the term "employment" as defined in that Act.

(2) For purposes of this subsection, individuals entitled to an annuity under paragraph [(ii) of section 2(a)(1) of this Act shall, except for purposes of recomputations in accordance with the provisions of section 215(f) of the Social Security Act, be deemed to have attained age 65, and individuals entitled to an annuity under paragraph (iv) or (v) of such section 2(a)(1) shall be deemed to be entitled to a disability insurance benefit under section 223 of the Social Security Act] *(iv) or (v) of section 2(a)(1) of this Act shall be deemed to be entitled to a disability insurance benefit under section 223 of the Social Security Act.*

*(3) In lieu of an annuity amount provided under subdivision (1), the annuity of an individual entitled to an annuity under paragraph (ii) of section 2(a)(1) of this Act which begins to accrue before the individual attains age 62 shall be in an amount equal to—*

*(i) for each month prior to the first month throughout which the individual is age 62, a monthly rate of $550 in the case of an individual whose annuity begins to accrue before January 1, 1984, or, in the case of an individual whose annuity begins to accrue on or after January 1, 1985, the monthly rate applicable in the calendar year before the calendar year in which the individual's annuity begins to accrue multiplied by the ratio of (A) the average of the total wages (as defined in regulations of the Secretary of the Treasury and computed without regard to the limitations specified in section 209(a) of the Social Security Act or section 3(j) of this Act) reported to the Secretary of the Treas-*

*ury or such Secretary's delegate for the calendar year two years before the calendar year in which the individual's annuity begins to accrue to (B) the average of the total wages (as so defined and computed) reported to the Secretary of the Treasury or such Secretary's delegate for the calendar year three years before the calendar year in which the individual's annuity begins to accrue, with such product, if not a multiple of $1, being reduced to the next lower multiple of $1; and*

*(ii) for months beginning with the first month throughout which the individual is age 62, the amount (after any reduction on account of age but before any deductions on account of work) of the old-age insurance benefit or disability insurance benefit to which such individual would have been entitled under the Social Security Act if all of such individual's service as an employee after December 31, 1936, had been included in the term "employment" as defined in that Act.*

* * * * * * *

(f)(1) If the total amount of an individual's annuity and supplemental annuity computed under the preceding subsections of this section would, before any reductions on account of age, before any reduction due to such individual's entitlement to a monthly insurance benefit under the Social Security Act, and disregarding any increases in such total amount which become effective after the date on which such individual's annuity under section 2(a)(1) of this Act begins to accrue, exceed an amount equal to the sum of (A) 100 per centum of his "final average monthly compensation" up to an amount equal to 50 per centum of one-twelfth of the maximum annual taxable "wages" (as defined in section 3121 of the Internal Revenue Code of 1954) for the calendar year in which such individual's annuity under section 2(a)(1) of this Act begins to accrue, plus (B) 80 per centum of so much of his "final average monthly compensation" as exceeds 50 per centum of one-twelfth of the maximum annual taxable "wages" (as defined in section 3121 of the Internal Revenue Code of 1954) for the calendar year in which such individual's annuity under section 2(a)(1) of this Act begins to accrue, the supplemental annuity of such individual first, and then, if necessary, the annuity amount of such individual as computed under subsection (b) of this section, shall be reduced until such total amount of such individual's annuity and supplemental annuity equals such sum or until such supplemental annuity and such annuity amount computed under subsection (b) of this section are reduced to zero, whichever occurs first: *Provided, however,* That the provisions of this subdivision shall not operate to reduce the total amount of an individual's annuity and supplemental annuity computed under the preceding subsections of this section below $1,200. For purposes of this subdivision, the "final average monthly compensation" of an individual shall *except as provided in the following sentence* be determined by dividing the total compensation received by such individual in the two calendar years, consecutive or otherwise, in which he was credited with the highest total compensation during the ten-year period ending with December 31 of the year in which such individual's annuity under section 2(a)(1) of this Act begins to accrue by 24. *If the individual's "average monthly*

*compensation" is determined under subdivision (2) of subsection (b) of this section, the "final average monthly compensation" for such individual shall be the average of the compensation for the 24 months in which the compensation determined for the purpose of subdivision (2) of subsection (b) of this section is the highest.* For purposes of this subdivision, the term "compensation" shall include "compensation" as defined in section 1(h) of this Act, "wages" as defined in section 209 of the Social Security Act, "self-employment income" as defined in section 211(b) of the Social Security Act, and wages deemed to have been paid under section 217 or 229 of the Social Security Act on account of military service: *Provided however,* That in no case shall the compensation with respect to any calendar month exceed the limitation on the compensation for such month prescribed in subsection (j) of this section. Wages and self-employment income included as compensation for purposes of this subdivision shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the calendar quarter in which credited, in the case of wages paid before 1978, or in equal proportions with respect to all months in the calendar year in which credited, in the case of self-employment income and in the case of wages paid after 1977.

(2) If, in the case of an individual whose annuity under section 2(a)(1) of this Act began to accrue prior to January 1, 1983, the annuity (before any reduction due to such individual's entitlement to a monthly insurance benefit under the Social Security Act and disregarding any amount provided by subsection (h) of this section) plus the supplemental annuity to which such individual is entitled for any month under this Act, together with the annuity, if any, of the spouse of such individual (before any reduction due to such spouse's entitlement to a wife's or husband's insurance benefit under the Social Security Act and disregarding any amount provided by section 4(e) of this Act, before any reductions under the provisions of section 2(f) of this Act, is less than the total amount which would have been payable to such individual and his spouse for such month, on the basis of the individual's compensation and years of service, under the provisions of the Railroad Retirement Act of 1937 as in effect on December 31, 1974, disregarding, for purposes of the computations under such Railroad Retirement Act of 1937, compensation for any month after December 31, 1974, in excess of one-twelfth of the maximum annual taxable "wages" (as defined in section 3121 of the Internal Revenue Code of 1954) for the calender year 1974, the annuity of such individual and the annuity of such spouse, if any, shall be increased, without regard to the provisions of subdivision (1) of this subsection, proportionately so as to equal such total amount. For the purpose of computing amounts under this subdivision, the Board shall have the authority to approximate the effect of the reductions prescribed by sections 3(a)(2) of the Railroad Retirement Act of 1937. For purposes of computing amounts payable under the Railroad Retirement Act of 1937, any increases in the amounts determined under the first proviso of section 3(e) of such Act which would have become effective after December 31, 1974, shall be disregarded.

(3) If for any month in which an annuity accrues and is payable under the Act the annuity to which an individual is entitled under

this Act (or would have been entitled except for a reduction pursuant to a joint and survivor election), together with the annuity, if any, of the spouse *and divorced wife* of such individual, is less than the total amount, or the additional amount, which would have been payable to all persons of such month under the Social Security Act if such individual's service as an employee after December 31, 1936, were included in the term "employment" as defined in that Act, [such annuity or annuities] *the annuities of the individual and spouse* shall be increased proportionately to such total amount, or such additional amount: *Provided, however,* That if an annuity accrues to an individual or a spouse for a part of a month, the amount payable for such part of a month under this subdivision shall be one-thirtieth of the amount payable under this subdivision for an entire month, multiplied by the number of days in such part of a month. For purposes of this subdivision, (i) persons not entitled to an annuity under section 2 of this Act shall not be included in the computation under this subdivision except a spouse who could qualify for an annuity under section 2(c) of this Act if the individual from whom the spouse's annuity under this Act would derive had attained age 60 or 62, as the case may be, and such individual's children who meet the definition as such contained in section 216(e) of the Social Security Act; (ii) after an annuity has been certified for payment and this subdivision was inapplicable after allowing for any waiting period under section 223(c)(2) of the Social Security Act, and after having considered the inclusion of all persons who were then eligible for inclusion in the computation under this subdivision, or was then applicable but later became inapplicable, any recertification in such annuity under this subdivision shall not take into account persons not entitled to an annuity under section 2 of this Act except a spouse who could qualify for an annuity under section 2(c) of this Act when she attains age 60 or 62, as the case may be, if the individual from whom the spouse's annuity would derive had attained age 60 or 62, as the case may be, and who was married to such individual at the time he applied for his annuity; and (iii) in computing the amount to be paid under this subdivision the only benefits under title II of the Social Security Act which shall be considered shall be those to which the persons included in the the computation are entitled.

[(g) Effective with the month of June for any year after 1981, that portion of the annuity of an individual which is computed under subsection (b) of this section shall, if such individual's annuity under section 2(a)(1) of this Act began to accrue on or before June 1 of such year, be increased by 32.5 per centum of the percentage increase, if any (rounded to the nearest one-tenth of 1 per centum), obtained by comparing (A) the unadjusted Consumer Price Index for the calendar quarter ending March 31 of such year with (B) the higher of (i) such index for the calendar quarter ending March 31 of the year immediately preceding such year or (ii) such index for the calendar quarter ending March 31 of any preceding year after 1980. The unadjusted Consumer Price Index for any calendar quarter shall be the arithmetical mean of such index for the three months in such quarter.]

*(g)(1) Effective with the date of any increase after calendar year 1982 in monthly insurance benefits under the Social Security Act*

*which occurs, or which would have occurred had there not been a general benefit increase under that Act, pursuant to the automatic cost-of-living provisions of section 215(i) of that Act, that portion of the annuity of an individual which is computed under subsection (b) of this section shall, if such individual's annuity under section 2(a)(1) of this Act began to accrue on or before the effective date of a particular increase under this subdivision, be increased by 32.5 per centum of the percentage increase in the unadjusted Consumer Price Index which is used, or which would have been used had there not been a general benefit increase under the Social Security Act, in increasing benefits under the Social Security Act pursuant to the automatic cost-of-living provisions of section 215(i) of that Act.*

*(2) The first and, if necessary, the second time after January 1, 1983, that monthly insurance benefits under section 202 of the Social Security Act are increased, that portion of the annuity of an individual which is computed under subsection (b) of this section as increased under subdivision (1) of this subsection shall, if such individual's annuity under section 2(a)(1) of this Act began to accrue in or before the year in which such first increase under the Social Security Act became effective, be reduced by the dollar amount by which that portion of the annuity provided such individual under subsection (a) of this section was increased, after any reduction under subsection (m) of this section, as a result of such increase or increases under the Social Security Act until the total dollar amount of such reduction or reductions equals 5 per centum of the annuity amount provided such individual under subsection (a), as reduced under subsection (m), prior to such first increase.*

* * * * * * *

COMPUTATION OF SPOUSE AND SURVIVOR ANNUITIES

SEC. 4. (a)(1) The annuity of a spouse or divorced wife of an individual under section 2(c) of this Act shall be in an amount equal to the amount (before any reduction on account of age and before any deductions on account of work) of the wife's insurance benefit or the husband's insurance benefit to which such spouse or divorced wife would have been entitled under the Social Security Act if such individual's service as an employee after December 31, 1936, had been included in the term "employment" as defined in that Act.

(2) For purposes of this subsection, [spouses] *if an individual is entitled to an annuity under paragraph (ii) of section 2(a)(1) of this Act which did not begin to accrue before such individual attained age 62, the spouse of such individual* entitled to an annuity under clause (B) of paragraph (ii) of section 2(c)(1) of this Act shall be deemed to have attained age 65.

*(3) In the case of an individual entitled to an annuity under section 2(a)(1)(ii) of this Act which began to accrue before such individual attained age 62, the annuity of the spouse of such individual under section 2(c) of this Act shall, in lieu of an annuity amount provided under subdivision (1), be in an amount equal to—*

*(i) for each month prior to the first month throughout which both the individual and the spouse are age 62, 50 per centum of that portion of the individual's annuity as is, or was prior to*

*such individual's attaining age 62, computed under section 3(a)(3)(i) of this Act; and*

*(ii) for months beginning with the first month throughout which both the individual and the spouse are age 62, the amount (after any reduction on account of age based on the spouse's age at the time the amount under this paragraph first becomes payable but before any deductions on account of work) of the wife's insurance benefit or the husband's insurance benefit to which such spouse would have been entitled under the Social Security Act if the individual's service as an employee after December 31, 1936, had been included in the term "employment" as defined in that Act.*

*(4) In the case of an individual entitled to an annuity under paragraph (iv) or (v) of section 2(a)(1) of this Act, the annuity of the spouse of such individual entitled to an annuity under section 2(c)(1)(ii)(B) of this Act shall, in lieu of an annuity amount provided under subdivision (1), be in an amount equal to the amount (after any reduction on account of age but before any deductions on account of work) of the wife's insurance benefit or the husband's insurance benefit to which such spouse would have been entitled under the Social Security Act if the individual's service as an employee after December 31, 1936, had been included in the term "employment" as defined in that Act. For purposes of this subdivision, spouses who have not attained age 62 shall be deemed to have attained age 62.*

* * * * * * *

(d) *(1)* That portion of the annuity of the spouse of an individual as is determined under subsections (b) and (c) of this section shall be increased by the same percentage, or percentages, as the individual's annuity is, or has been, increased pursuant to the provisions of section 3(g) of this Act.

*(2) That portion of the annuity of the spouse of an individual as is determined under subsection (b) of this section prior to any determination under subsection (c) of this subsection shall, if the annuity of such spouse is not subject to reduction under subdivision (3) of this subsection, be reduced by an amount equal to 45 per centum of the dollar amount by which the annuity of the individual was reduced under section 3(g)(2) of this Act.*

*(3) the first and, if necessary, the second time after January 1, 1983, that monthly insurance benefits under section 202 of the Social Security Act are increased, that portion of the annuity of the spouse of an individual as is determined under subsections (b), (c), and (d)(1) of this section shall, if such spouse's annuity under section 2(c) of this Act began to accrue in or before the year in which such first increase under the Social Security Act became effective, be reduced by the dollar amount by which that portion of the annuity provided such spouse under subsection (a) of this section was increased, after any reduction under subsection (i) of this section, as a result of such increase or increases under the Social Security Act until the total dollar amount of such reduction or reductions equals 5 per centum of the annuity amount provided such spouse under*

*subsection (a), as reduced under subsection (i), prior to such first increase.*

* * * * * * *

(g)(1) The amount of the annuity provided under subsection (f)(1) (other than the last sentence thereof) for a survivor of a deceased individual shall be increased by an amount equal to the appropriate one of the following percentages of that portion of the annuity computed under section 3(b) of this Act, before any reduction on account of age, to which such deceased individual would have been entitled for the month such survivor's annuity under section 2(d) of this Act began to accrue if such individual were living (deeming for this purpose that if such individual died before becoming entitled to an annuity under section 2(a)(1) of this Act, such individual became entitled to an annuity under subdivision (i) of such section 2(a)(1) in the month in which such individual died):

(i) In the case of a widow or widower, the increase shall be equal to 50 per centum of such portion of the deceased individual's annuity, but the amount of the annuity so determined shall be subject to reduction on account of age in the same manner as is applicable to the annuity amount determined for the widow or widower under subsection (f) and shall be subject to increase as provided in subdivision (4) of this subsection.

(ii) In the case of a parent, the increase shall be equal to 35 per centum of such portion of the deceased individual's annuity.

(iii) In the case of a child, the increase shall be equal to 15 per centum of such portion of the deceased individual's annuity.

(2) Whenever the total amount of the increases based on the deceased individual's portion of the annuity under section 3(b) of this Act as determined under subdivision (1) of this subsection for all survivors of a deceased employee is—

(i) less than an amount equal to 35 per centun of such portion of the deceased individual's annuity, the total increase shall, before any deductions under section 2(g) of this Act, be increased proportionately until the total increase is equal to 35 per centum of such portion of the deceased individual's annuity; or

(ii) more than an amount equal to 80 per centum of such portion of the decreased individual's annuity, the total increase shall, before any deductions under section 2(g) of this Act and before any reduction on account of age, be reduced proportionately until the total increase to equal to 80 per centum of such portion of the deceased individual's annuity.

(3) An annuity determined under this subsection for a month prior to the month in which application is filed, shall be reduced to any extent that may be necessary so that it will not render erroneous any annuity which, before the filing of such application, the Board has certified for payment for such prior month.

(4) If a widow or widower of a deceased employee is entitled to an annuity under section 2(a)(1) of this Act and if either such widow or widower or such deceased employee will have completed 10 years of service prior to January 1, 1975, the amount of the annu-

ity of such widow or widower under subdivisions (1) through (3) of this subsection shall be increased by an amount equal to the amount, if any, by which (A) the widow's or widower's insurance annuity to which such widow or widower would have been entitled, upon attaining age 65, under section 5(a) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974 (without regard to the proviso of that section or the first proviso of section 3(e) of that Act) on the basis of the deceased employee's remuneration and service prior to January 1, 1975, increased by the same percentage, or percentages, as widow's and widower's insurance benefits under section 202 of the Social Security Act are increased during the period from January 1, 1975, to the later of the date on which such widow's or widower's annuity under section 2(a)(1) of this Act began to accrue or the date on which such widow's or widower's annuity under section 2(d)(1) of this Act began to accrue, exceeds (B) the total of the annuity amounts to which such widow or widower was entitled (after any reductions pursuant to subsection (i)(2) of this section but before any deductions on account of work) under the preceding provisions of this subsection, subsection (f) of this section, and the amount determined under subsection (h) of this section before the proviso, as of the later of the date on which such widow's or widower's annuity under section 2(a)(1) of this Act began to accrue or the date on which such widow's or widower's annuity under section 2(d)(1) of this Act began to accrue. If a widow or widower of a deceased employee is not entitled to an annuity under section 2(a)(1) of this Act or to an old-age insurance benefit or a disability insurance benefit under the Social Security Act, the amount of the annuity to which such widow or widower is entitled under this subsection shall not be less than an amount which would cause the total of the annuity amounts to which such widow or widower is entitled (before any deductions on account of work) under this subsection and subsection (f)(1) of this section to equal the total of the annuity amounts to which such widow or widower was entitled (or would have been entitled except for the provisions of sections 2(e) and 2(f) of this Act) as a spouse under subsections (a), (b), and (e)[(3)] of this section (after any reduction on account of age) in the month preceding the employee's death. If a widow or widower of a deceased employee is entitled to an annuity under section 2(a)(1) of this Act or to an old-age insurance benefit or a disability insurance benefit under the Social Security Act, the amount of the annuity to which such widow or widower is entitled under this subsection shall not be less than an amount which would cause (A) the total of the annuity amounts to which such widow or widower is entitled (after any reductions pursuant to section 202(k) or 202(q) of the Social Security Act or subsection (i)(2) of this section but before any deductions on account of work) under this subsection and subsection (f) of this section to equal (B)(i) the total of the annuity amounts, if any, to which such widow or widower was entitled (or would have been entitled except for the provisions of sections 2(e) and 2(f) of this Act) as a spouse under subsections (a), (b), and (e) of this section (after any reduction on account of age) in the month preceding the employee's death less (ii), if such widow or widower is entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act but was not enti-

tled to such a benefit in the month preceding the employee's death, the amount by which the annuity amount payable under subsection (a) of this section to such widow or widower as a spouse in the month preceding the employee's death would have been reduced by reason of section 202(k) or 202(q) of the Social Security Act if such widow or widower had been entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act in the month preceding the employee's death in an amount equal to the amount of such benefit at the time such benefit first began to accrue to such widow or widower.

(5) This subsection shall not apply to the annuity of a widow surviving divorced wife, or surviving divorced mother who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.

(6) That portion of the annuity of a survivor of an individual determined under subdivisions (1) and (2) of this subsection shall be increased whenever, and by the same percentage or percentages as, the annuity of the individual would have been increased pursuant to section 3(g) of this Act if such individual were still living.

*(7) The first and, if necessary, the second time after January 1, 1983, that monthly insurance benefits under section 202 of the Social Security Act are increased, that portion of the annuity of a survivor of a deceased individual as is determined under subdivisions (1) and (2) of this subsection, or under section 4(g) of this Act as in effect before amendment by section 1118(g) of Public Law 97-35, shall, if such survivor's annuity under section 2(d) of this Act began to accrue before the effective date of such first increase under the Social Security Act, be reduced by the dollar amount by which that portion of the annuity provided such survivor under subsection (f) of this section was increased, after any reduction under subsection (i) of this section, as a result of such increase or increases under the Social Security Act until the total dollar amount of such reduction or reductions equals 5 per centum of the annuity amount provided such survivor under subsection (f), as reduced under subsection (i), prior to such first increase.*

*(8) That portion of the annuity of a survivor of a deceased individual as is determined under section 4(g) of this Act as in effect before amendment by section 1118(g) of Public Law 97-35 shall, if the annuity of such survivor is not subject to reduction under subdivision (7) of this subsection, be reduced by an amount equal to 50 per centum of the dollar amount by which the annuity of the deceased individual was reduced under section 3(g)(2) of this Act.*

* * * * * * *

(i)(1) The annuity of any spouse or divorced wife under subsection (a) of this section for any month shall, after deduction pursuant to section 2(c)(2) be reduced, but not below zero, by the amount of any insurance benefit (before any deduction on account of work) payable to such spouse or divorced wife for that month under title II of the Social Security Act.

(2) If a spouse or divorced wife entitled to an annuity under section 2(c) of this Act or a survivor entitled to an annuity under section 2(d) of this Act for any month is also entitled to an annuity under section 2(a)(1) of this Act for such month, the annuity

amount of such spouse or divorced wife determined under subsection (a) of this section or of such survivor under subsection (f) of this section shall, after any reduction pursuant to subdivision (1) of this subsection, be reduced by the amount of the annuity of such spouse or such survivor determined under section 3(a) of this Act.

*(3) The annuity of any survivor under subsection (f) of this section shall be reduced, but not below zero, by the amount of any insurance benefit (before any deduction on account of work) payable to such survivor under title II of the Social Security Act, unless in computing the amount under subsection (f) a reduction was made for such insurance benefit pursuant to section 202(k) of the Social Security Act.*

ANNUITY BEGINNING AND ENDING DATES

SEC. 5. (a) [An annuity] *Subject to the limitations set forth below, an annuity* under section 2 of this Act shall begin with the month in which eligibility therefor was otherwise acquired, but—

(i) not earlier than the date specified in the application therefor;

[(ii) not earlier than the first day of the twelfth month before the month in which the application therefor was filed;

[(iii) in the case of an applicant otherwise eligible for an annuity under section 2(a(1) or 2(c) not earlier than the date following the last day of compensated service of the applicant; and]

*(ii) in the case of an applicant otherwise entitled to an annuity under paragraph (iv) or (v) of section 2(a)(1) or under section 2(d)(1)(i) on the basis of disability, not earlier than the later of (A) the first day of the sixth month following the onset date of the disability for which such annuity is awarded or (B) the first day of the twelfth month before the month in which the application therefor was filed;*

*(iii) in the case of an applicant otherwise entitled to an annuity under section 2(a)(1), 2(c), or 2(d) where paragraph (ii) does not apply, not earlier than the latest of (A) the first day of the sixth month before the month in which the application therefor was filed, (B) the first day of the month in which the application therefor was filed if the effect of beginning such annuity in an earlier month would result in a greater age reduction in the annuity, unless beginning the annuity in the earlier month would enable an annuity under section 2(c) which is not subject to an age reduction to be payable in such earlier month, (C) in the case of an applicant otherwise entitled to an annuity under section 2(a)(1) or 2(c), the date following the last day of compensated service of the applicant, or (D) in the case of an applicant otherwise entitled to an annuity under section 2(a)(1) or 2(c), the first day of the first month throughout which the applicant meets the age requirement for the annuity applied for;*

(iv) in the case of an applicant otherwise entitled to an annuity under section 2(c)(4) or 2(d)(1)(v) of this Act, not earlier than the month an annuity would begin to accrue to such individual under such section if section 202(j)(1) and section 202(j)(4) of the Social Security Act were applicable to this Act.

(v) an annuity amount provided by section 3(h)(1) or 3(h)(2) shall not be paid to an individual otherwise eligible therefor for any month before the month such individual would be entitled, upon filing an application therefor, to an old-age insurance benefit or a disability insurance benefit under title II of the Social Security Act and an annuity amount provided by section 3(h)(3) or section 3(h)(4) shall not be paid to an individual otherwise eligible therefor for any month before the month such individual would be entitled, upon filing an application therefore, to an insurance benefit as a wife, husband, widow, or widower under title II of the Social Security Act;

(vi) an annuity amount provided by section 4(e)(1) or 4(e)(2) shall not be paid to a spouse otherwise eligible therefor for any month prior to the month such spouse would be entitled, upon filing an application therefor, to an old-age or disability insurance benefit under title II of the Social Security Act; and

(vii) an annuity amount provided by section 4(e)(3) shall not be paid to a spouse otherwise eligible therefor for any month prior to the month such spouse would be entitled, upon filing an application therefor, to a wife's or husband's insurance benefit under title II of the Social Security Act.

*For the purpose of determining annuity amounts provided under sections 3(a), 4(a), and 4(f) of this Act, the provisions with respect to the beginning dates of annuities set forth in this subsection shall be deemed to govern the beginning dates of monthly benefits provided under the Social Security Act.*

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(c)(1) * * *

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(7) The entitlement of a child of a deceased employee to an annuity under paragraph (iii) of section 2(d)(1) shall end on (A) the last day of the month preceding the month in which he or she dies, (B) the last day of the month preceding the month in which he or she marries, (C) the last day of the month preceding the month in which he or she attains age 18 and does not meet the qualifications set forth in clause (B) or (C) of such paragraph (iii), (D) the last day of the month preceding (i) the month during no part of which he or she is a full-time *elementary or secondary school* student or (ii) the month in which he or she attains age **[**22**]** *19,* and does not meet the qualifications set forth in clause (A) or (C) of such paragraph (iii), or (E) the last day of the second month following the month in which he or she ceases to be disabled for purposes of such paragraph (iii) and does not meet the qualifications set forth in clause (A) or (B) of such paragraph (iii), whichever first occurs. A child whose entitlement to an annuity under paragraph (iii) of section 2(d)(1) terminated by reason of clause (E) of this subdivision because he or she ceased to be disabled and who again becomes disabled as provided in clause (C) of such paragraph (iii), may become reentitled to an annuity on the basis of such disability upon his or her application for such reentitlement. A child whose entitlement to an annuity under paragraph (iii) of section 2(d)(1) terminated with the month preceding the month in which he or she attained

age 18, or with a subsequent month, may again become entitled to such an annuity (providing no event to disqualify the child has occurred) beginning with the first month thereafter in which he or she meets the qualifications set forth in clause (B) or (C) of such paragraph (iii), if he or she has filed an application for such reentitlement.

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LUMP-SUM PAYMENTS

SEC. 6. (a) * * *

* * * * * * *

(b)(1) Upon the death of an individual who will have completed ten years of service prior to January 1, 1975, and will have had a current connection with the railroad industry at the time of his death, a lump-sum payment shall be made in accordance with the provisions of section 5(f)(1) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974, in an amount, if any, which would have been payable under such section 5(f)(1) on the basis of (A) the individual's compensation after December 31, 1936, and prior to January 1, 1975, and (B) the individual's wages (as defined in section 209 of the Social Security Act) prior to January 1, 1975. Any lump sum payable under this subdivision shall be in an amount computed as if the individual had died on January 1, 1975. *No lump sum shall be payable under this subdivision if the employee died leaving a surviving divorced wife who would on proper application therefore be entitled to receive an annuity under section 2(d) of this Act for the month in which the employee's death occurred.*

* * * * * * *

POWERS AND DUTIES OF THE BOARD

SEC. 7. (a) * * *

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(c)(1) * * *

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*(4) After the end of each month beginning with the month of October 1983, the Board shall determine the net amount, if any, which if added to or substracted from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund would, with respect to such month, place those Trust Funds, taken as a whole, in the same position in which they would have been if (A) service as an employee after December 31, 1936, had been included in the term "employment" as defined in the Social Security Act and in the Federal Insurance Contributions Act, and (B) this Act had not been enacted. If for any month the net amount so determined would be subtracted from those Trust Funds, the Board shall, within ten days after the end of such month, report such amount to the Secretary of the Treasury for transfer from the general fund to the Railroad Retirement Account. Any amount so reported shall further include in-*

*terest (at an annual rate equal to the rate of interest borne by a special obligation issued to the Railroad Retirement Account in the month in which the transfer is made to the Account) payable from the close of the month for which the transfer is made until the date of transfer. The Secretary of the Treasury is authorized and directed to transfer to the Railroad Retirement Account from the general fund such amounts as, from time to time, may be determined by the Board pursuant to the provisions of this subdivision and reported by the Board for transfer. For such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities issued after the date of the enactment of this Act under section 3102 of title 31 of the United States Code, and the purpose for which securities may be issued under section 3102 of title 31 of the United States Code are extended to include such purpose. Each such transfer shall be made by the Secretary of the Treasury within five days after a report of the amount to be transferred is received. Not later than December 31 following the close of each fiscal year beginning with the fiscal year ending September 30, 1984, the Board shall certify to the Secretary of the Treasury the total of all amounts transferred pursuant to the provisions of this subdivision for months in such fiscal year. Within ten days after a transfer, or transfers, pursuant to subdivision (2) for a particular fiscal year, the Board shall request the Secretary of the Treasury to retransfer from the Railroad Retirement Account to the general fund an amount equal to (A) the total of all amounts, exclusive of interest, transferred to such Account pursuant to the provisions of this subdivision for months in such fiscal year, plus (B) interest (at the rate determined in subdivision (3) for such fiscal year) payable with respect to each amount transferred for a month during such fiscal year from the close of the month for which the transfer of the amount was made until the date of retransfer of such amount. The Secretary of the Treasury is authorized and directed to retransfer from the Railroad Retirement Account to the general fund such amounts as, from time to time, may be determined by the Board pursuant to the provisions of the preceding sentence of this subdivision and reported by the Board for retransfer.*

* * * * * * *

RAILROAD RETIREMENT ACCOUNT

SEC. 15. (a) * * *

[(b)(1) In addition to the amount appropriated in subsection (a) of this section, there is hereby authorized to be appropriated to the Railroad Retirement Account for each fiscal year, beginning with the fiscal year ending June 30, 1975, such amount as the Board determines to be necessary to meet (A) the additional costs, resulting from the crediting of military service under this Act, of benefits payable under section 2 of this Act, but only to the extent that such Account is not reimbursed for such costs under section 7(c)(2), (B) the additional administrative expenses resulting from the crediting of military service under this Act, and (C) any loss in interest to such Account resulting from the payment of additional benefits based on military service credited under this Act: *Provided, however,* That, in determining the amount to be appropriated to the Rail-

road Retirement Account for any fiscal year pursuant to the provisions of this subsection, there shall not be considered any costs resulting from the crediting of military service under this Act for which appropriations to such Account have already been made pursuant to section 4(l) of the Railroad Retirement Act of 1937. Any determination as to loss interest to the Railroad Retirement Account pursuant to clause (C) of the first sentence of this subsection shall take into account interest from the date each annuity based, in part, on military service began to accrue or was increased to the date or dates on which the amount appropriated is credited to the Account. The cost resulting from the payment of additional benefits under this Act based on military service determined pursuant to the preceding provisions of this subsection shall be adjusted by applying thereto the ratio of the total net level cost of all benefits under this Act to the portion of such net level cost remaining after the exclusion of administrative expenses and interest charges on the unfunded accrued liability as determined under the last completed actuarial valuation pursuant to the provisions of subsection (g) of this section. At the close of the fiscal year ending June 30, 1975, and each fiscal year thereafter, the Board shall, as promptly as practicable, determine the amount to be appropriated to the Account pursuant to the provisions of this subsection, and shall certify such amount to the Secretary of the Treasury for transfer from the general fund in the Treasury to the Railroad Retirement Account. When authorized by an appropriation Act, the Secretary of the Treasury shall transfer to the Railroad Retirement Account from the general fund in the Treasury such amounts as, from time to time, may be determined by the Board pursuant to the provisions of this subsection and certified by the Board for transfer to such Account. In any determination made pursuant to section 7(c)(2) of this Act, no further charges shall be made against the Trust Funds established by title II of the Social Security Act for military service rendered before January 1, 1957, and with respect to which appropriations authorized by clause (2) of the first sentence of section 4(l) of the Railroad Retirement Act of 1937 shall have been credited to the Railroad Retirement Account, but the additional benefit payments incurred by such Trust Funds by reason of such military service shall be taken in account in making any such determination.

[(2) In any month when the Board finds that the balance in the Railroad Retirement Account is insufficient to pay annuity amounts due to be paid during the following month, the Board shall report to the Secretary of the Treasury the additional amount of money necessary in order to make such annuity payments, and the Secretary shall transfer to the credit of the Railroad Retirement Account such additional amount upon receiving such report from the Board. The total amount of money outstanding to the Railroad Retirement Account from the general fund at any time during any fiscal year shall not exceed the total amount of money the Board and the Trustees of the Social Security Trust Funds estimate will be transferred to the Railroad Retirement Account pursuant to section 7(c)(2) of this Act with respect to such fiscal year. Whenever the Board determines that the sums in the Railroad Retirement Account are sufficient to pay annuity amounts, the Board

shall request the Secretary of the Treasury to retransfer to the general fund from the Railroad Retirement Account all or any part of the amount outstanding, and the Secretary of the Treasury shall make such retransfer of the amount requested. Not later than 10 days after a transfer to the Railroad Retirement Account under section 7(c)(2) of this Act, any amount of money outstanding to the Railroad Retirement Account from the general fund under this subdivision shall be retransferred in accordance with this subdivision. Any amount retransferred shall include an amount of interest computed at a rate determined in accordance with the following two sentences: The rate of interest payable with respect to an amount outstanding for any month shall be equal to the average investment yield for the most recent auction (before such month) of United States Treasury bills with maturities of 52 weeks, deeming any amount outstanding at the beginning of a month to have been borrowed at the beginning of such month. For this purpose the amount of interest computed in accordance with the preceding sentence but not repaid by the end of such month shall be added to the amount outstanding at the beginning of the next month.

[(2) In any month when the Board finds that the balance in the Railroad Retirement Account is insufficient to pay annuity amounts due to be paid during the following month, the Board shall report to the Secretary of the Treasury the additional amount of money necessary in order to make such annuity payments, and the Secretary shall transfer to the credit of the Railroad Retirement Account such additional amount upon receiving such report from the Board. The total amount of money outstanding to the Railroad Retirement Account from the general fund at any time during any fiscal year shall not exceed the total amount of money the Board and the Trustees of the Social Security Trust Fund estimate will be transferred to the Railroad Retirement Account pursuant to section 7(c)(2) of this Act with respect to such fiscal year. Whenever the Board determines that the sums in the Railroad Retirement Account are sufficient to pay annuity amounts, the Board shall request the Secretary of the Treasury to retransfer to the general fund from the Railroad Retirement Account all or any part of the amount outstanding, and the Secretary of the Treasury shall make such retransfer of the amount requested. Not later than 10 days after a transfer to the Railroad Retirement Account under section 7(c)(2) of this Act, any amount of money outstanding to the Railroad Retirement Account from the general fund under this subdivision shall be retransferred in accordance with this subdivision. Any amount retransferred shall include an amount of interest computed at a rate determined in accordance with the following two sentences: The rate of interest payable with respect to an amount outstanding for any month shall be equal to the average investment yield for the most recent auction (before such month) of United States Treasury bills with maturities of 52 weeks, deeming any amount outstanding at the beginning of a month to have been borrowed at the beginning of such month. For this purpose the amount of interest computed in accordance with the preceding sentence but not repaid by the end of such month shall be added to the amount outstanding at the beginning of the next month.]

*(b) In addition to the amount appropriated in subsection (a) of this section, there is hereby authorized to be appropriated to the Railroad Retirement Account for each fiscal year, beginning with the fiscal year ending June 30, 1975, such amount as the Board determines to be necessary to meet (A) the additional costs, resulting from the crediting of military service under this Act, of benefits payable under section 2 of this Act, but only to the extent that such Account is not reimbursed for such costs under section 7(c)(2), (B) the additional administrative expenses resulting from the crediting of military service under this Act, and (C) any loss in interest to such Account resulting from the payment of additional benefits based on military service credited under this Act: Provided, however, That, in determining the amount to be appropriated to the Railroad Retirement Account for any fiscal year pursuant to the provisions of this subsection, there shall not be considered any costs resulting from the crediting of military service under this Act for which appropriations to such Account have already been made pursuant to section 4(l) of the Railroad Retirement Act of 1937. Any determination as to loss in interest to the Railroad Retirement Account pursuant to clause (C) of the first sentence of this subsection shall take into account interest from the date each annuity based, in part, on military service began to accrue or was increased to the date or dates on which the amount appropriated is credited to the Account. The cost resulting from the payment of additional benefits under this Act based on military service determined pursuant to the preceding provisions of this subsection shall be adjusted by applying thereto the ratio of the total net level cost of all benefits under this Act to the portion of such net level cost remaining after the exclusion of administrative expenses and interest charges on the unfunded accrued liability as determined under the last completed actuarial valuation pursuant to the provisions of subsection (g) of this section. At the close of the fiscal year ending June 30, 1975, and each fiscal year thereafter, the Board shall, as promptly as practicable, determine the amount to be appropriated to the Account pursuant to the provisions of this subsection, and shall certify such amount to the Secretary of the Treasury for transfer from the general fund in the Treasury to the Railroad Retirement Account. When authorized by an appropriation Act, the Secretary of the Treasury shall transfer to the Railroad Retirement Account from the general fund in the Treasury such amounts as, from time to time, may be determined by the Board pursuant to the provisions of this subsection and certified by the Board for transfer to such Account. In any determination made pursuant to section 7(c)(2) of this Act, no further charges shall be made against the Trust Funds established by title II of the Social Security Act for military service rendered before January 1, 1957, and with respect to which appropriations authorized by clause (2) of the first sentence of section 4(l) of the Railroad Retirement Act of 1937 shall have been credited to the Railroad Retirement Account, but the additional benefit payments incurred by such Trust Funds by reason of such military service shall be taken in account in making any such determination.*

* * * * * * *

(d) *(1)* There is hereby created an account in the Treasury of the United States to be known as the Dual Benefits Payments Account. There is hereby authorized to be appropriated to such account for each fiscal year beginning with the fiscal year ending September 30, 1982, such sums as are necessary to pay during such fiscal year the amounts of annuities estimated by the Board to be paid under sections 3(h), 4(e), and 4(h) of this Act and under sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445. Not more than 30 days prior to each fiscal year beginning with the fiscal year ending September 30, 1982, the Board may request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Dual Benefits Payments Account any amount not exceeding [one-twelfth of the amount which the Board has determined will be the amount of the appropriation to be made to the Dual Benefits Payments Account under the applicable Public Law making such appropriation for such fiscal year, and the Secretary of the Treasury shall make such transfer] *the amount that the Board estimates will be necessary to pay on the first day of the next succeeding month the annuity amounts under sections 3(h), 4(e) and 4(h) of this Act and under sections 204(a)(3), 204(a)(4), 206(3), and 207(3), of Public Law 93-445, taking into account any reduction in such annuity amounts as determined under section 7(c)(1) of this Act, and the Secretary of the Treasury shall make such transfer, but at no time shall the total amount of money outstanding to the Dual Benefits Payments Account from the Railroad Retirement Account exceed the amount necessary to pay the annuity amounts under sections 3(h), 4(e) and 4(h) of this Act and sections 204(a)(3), 204(a)(4), 206(3), and 207(3), of Public Law 93-445 for one month.* Not more than 10 days after the funds appropriated to the Dual Benefits Payments Account for each such fiscal year are received into such Account, the Board shall request the Secretary of the Treasury to re-transfer from the Dual Benefits Payments Account to the credit of the Railroad Retirement Account an amount equal to the amount transferred to the Dual Benefits Payments Account prior to such fiscal year under the preceding sentence, together with such additional amount determined by the Board to be equal to the loss of interest to the Railroad Retirement Account resulting from such transfer, and the Secretary of the Treasury shall make such retransfer.

*(2) The Secretary of the Treasury—*

*(i) shall transfer from the general fund as a loan to the Board on July 1, 1984, one-third of the special amount described in subdivision (3) of this subsection;*

*(ii) shall transfer from the general fund as a loan to the Board on July 1, 1985, one-third of the special amount described in subdivision (3) of this subsection, plus an amount equal to the interest that one-third would have earned had it been in the Railroad Retirement Account since July 1, 1984; and*

*(iii) shall on July 1 of the first year after 1985 with respect to which the determination referred to in section 3233 of the Internal Revenue Code of 1954 transfer from the general fund as a loan the final one-third of the special amount described in subdivision (3) of this subsection, plus an amount equal to the in-*

*terest that one-third would have earned had it been in the Railroad Retirement Account since July 1, 1984.*

*(3) The special amount referred to in subdivision (2) of this subsection is the amount which, as of July 1, 1984, would place the Railroad Retirement Account in the same position it would have been on that date if the appropriations made to such Account for the period beginning January 1, 1975, and ending on September 30, 1980, under the authorization for appropriations in section 15(d) of this Act, as in effect before October 1, 1981, had been equal to the amounts of annuities paid during such period under sections 3(h), 4(e), and 4(h) of this Act and under sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445.*

*(4) For the purposes of subdivision (2) of this subsection, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities issued after the date of the enactment of this Act under section 3102 of title 31 of the United States Code and the purposes for which securities may be so issued are extended to include such purposes.*

*(5) The amounts transferred as loans under subdivision (2) of this subsection shall be repaid to the general fund to the extent sums are appropriated for that purpose, and there are hereby authorized to be appropriated, in addition to any other sums authorized to be appropriated for the purposes of this Act and from any sums in the Treasury not otherwise appropriated, such sums as may be necessary to make such repayments.*

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*SOCIAL SECURITY EQUIVALENT BENEFIT ACCOUNT*

*SEC. 15A. (a) THERE IS HEREBY CREATED AN ACCOUNT IN THE TREASURY OF THE UNITED STATES TO BE KNOWN AS THE "SOCIAL SECURITY EQUIVALENT BENEFIT ACCOUNT".*

*(b) TRANSFERS, ETC., TO SOCIAL SECURITY EQUIVALENT BENEFIT ACCOUNT.—*

*(1) NET TIER 1 TAXES, ETC.—There is hereby appropriated to the Social Security Equivalent Benefit Account for each fiscal year, beginning with the fiscal year beginning October 1, 1984, an amount equal to the sum of the following amounts:*

*(A) NET TIER 1 TAXES.—Amounts covered into the Treasury (minus refunds) during such fiscal year under sections 3201(a), 3211(a)(1), and 3221(a) of the Railroad Retirement Tax Act.*

*(B) Income tax liabilities attributable to taxation of social security equivalent benefits.—The amount which (but for this section) would have been transferred to the Railroad Retirement Account under section 121(e) of the Social Security Amendments of 1983 to the extent that the amount which would have been so transferred is attributable to taxation of social security equivalent benefits.*

*Amounts appropriated to the Railroad Retirement Account shall be appropriately reduced to take into account the amounts appropriated under this paragraph to the Social Security Equivalent Benefit Account.*

*(2) FINANCIAL INTERCHANGE AMOUNTS.—On and after October 1, 1984, any amount which (but for this section) would have been transferred to the Railroad Retirement Account pursuant to paragraph (2) or (4) of section 7(c) of this Act shall be transferred to the Social Security Equivalent Benefit Account. On and after October 1, 1984, no transfer shall be made to the Railroad Retirement Account pursuant to paragraph (2) or (4) of section 7(c) of this Act.*

*(3) CERTAIN CREDITED MILITARY SERVICE AMOUNTS.—To the extent that the authorization for appropriation contained in section 15(b) is attributable to the cost of social security equivalent benefits, on and after October 1, 1984, any reference in such section to the Railroad Retirement Account shall be treated as a reference to the Social Security Equivalent Benefit Account.*

*(4) TIME AND MANNER OF CREDITS AND TRANSFERS.—Amounts appropriated or transferred to the Social Security Equivalent Benefit Account under this section shall be credited or transferred to such Account at the same time and in the same manner as such amounts would have been credited or transferred to the Railroad Retirement Account but for this section.*

*(c)(1) Except as otherwise provided in this section, amounts in the Social Security Equivalent Benefit Account shall be available only for purposes of paying social security equivalent benefits under this Act and to provide for the administrative expenses of the Board allocable to social security equivalent benefits.*

*(2) On and after October 1, 1984, any transfer which (but for this paragraph) would be required to be made from the Railroad Retirement Account under paragraph (2) or (4) of section 7(c) shall be made from the Social Security Equivalent Benefit Account.*

*(d)(1) Whenever the Board finds that the balance in the Social Security Equivalent Benefit Account will be insufficient to pay social security equivalent benefits which it estimates are due in any month, it shall request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Social Security Equivalent Benefit Account such moneys as the Board estimates will be necessary for the payment of such benefits, and the Secretary shall make such transfer. Whenever later in such month there is a transfer to the Social Security Equivalent Benefit Account under paragraph (2) or (4) of section 7(c) of this Act, the amount so transferred shall be immediately retransferred to the Railroad Retirement Account. The amount retransferred under the preceding sentence shall not exceed the amount of any outstanding transfers under this paragraph from the Railroad Retirement Account plus such additional amounts determined by the Board to be equal to the loss of interest to the Railroad Retirement Account resulting from such outstanding transfers.*

*(2) Whenever the Board determines that—*

*(A) amounts in the Railroad Retirement Account will not be sufficient to pay the annuities which it estimates are due, or will become due, from such Account, and*

*(B) the transfer under this paragraph will not jeopardize the present or future payment of social security equivalent benefits,*

*the Board shall request the Secretary of the Treasury to transfer from the Social Security Equivalent Benefit Account to the Rail-*

*road Retirement Account such moneys as the Board estimates will be necessary for the payment of such annuities, and the Secretary shall make such transfer. No transfer under this paragraph shall be required to be repaid.*

*(e) The provisions of subsections (e), (f), and (g) of section 15 are hereby made applicable to the Social Security Equivalent Benefit Account.*

*(f)(1) For purposes of making payments of social security equivalent benefits, references in this Act to the Railroad Retirement Account shall be treated as references to the Social Security Equivalent Benefit Account.*

*(2) For purposes of this section, the term "social security equivalent benefits" means benefits payable under this Act which are of a kind taken into account in determining the amount of transfers made under section 7(c)(2) of this Act.*

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## INTERNAL REVENUE CODE OF 1954

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## Subtitle A—Income Taxes

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## CHAPTER 1—NORMAL TAXES AND SURTAXES

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### Subchapter B—Computation of Taxable Income

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### PART II—ITEMS SPECIFICALLY INCLUDED IN GROSS INCOME

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SEC. 72. ANNUITIES; CERTAIN PROCEEDS OF ENDOWMENT AND LIFE INSURANCE CONTRACTS.

(a) GENERAL RULE FOR ANNUITIES.—* * *

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*(r) CERTAIN RAILROAD RETIREMENT BENEFITS TREATED AS RECEIVED UNDER EMPLOYER PLANS.—*

*(1) IN GENERAL.—Notwithstanding any other provision of law, any benefit provided under the Railroad Retirement Act of 1974 (other than a tier 1 railroad retirement benefit) shall be treated for purposes of this title as a benefit provided under an employer plan which meets the requirements of section 401(a).*

*(2) TIER 2 TAXES TREATED AS CONTRIBUTIONS.—*

*(A) IN GENERAL.—For purposes of paragraph (1)—*

*(i) the tier 2 portion of the tax imposed by section 3201 (relating to tax on employees) shall be treated as an employee contribution.*

*(ii) the tier 2 portion of the tax imposed by section 3211 (relating to tax on employee representatives) shall be treated as an employee contribution, and*

*(iii) the tier 2 portion of the tax imposed by section 3221 (relating to tax on employers) shall be treated as an employer contribution.*

*(B) TIER 2 PORTION.—For purposes of subparagraph (A)—*

*(i) AFTER 1984.—With respect to compensation paid after 1984, the tier 2 portion shall be the taxes imposed by sections 3201(b), 3211(a)(2), and 3221(b).*

*(ii) AFTER SEPTEMBER 30, 1981, AND BEFORE 1985.—With respect to compensation paid before 1985 for services rendered after September 30, 1981, the tier 2 portion shall be—*

*(I) so much of the tax imposed by section 3201 as is determined at the 2 percent rate, and*

*(II) so much of the taxes imposed by sections 3211 and 3221 as is determined at the 11.75 percent rate.*

*With respect to compensation paid for services rendered after June 30, 1984, and before 1985, subclause (I) shall be applied by substituting "2.75 percent" for "2 percent", and subclause (II) shall be applied by substituting "12.75 percent" for "11.75 percent".*

*(iii) BEFORE OCTOBER 1, 1981.—With respect to compensation paid for services rendered during any period before October 1, 1981, the tier 2 portion shall be the excess (if any) of—*

*(I) the tax imposed for such period by section 3201, 3211, or 3221, as the case may be (other than any tax imposed with respect to man-hours), over*

*(II) the tax which would have been imposed by such section for such period had the rates of the comparable taxes imposed by chapter 21 for such period applied under such section.*

*(C) CONTRIBUTIONS NOT ALLOCABLE TO SUPPLEMENTAL ANNUITY OR WINDFALL BENEFITS.—For purposes of paragraph (1), no amount treated as an employee contribution under this paragraph shall be allocated to—*

*(1) any supplemental annuity paid under section 2(b) of the Railroad Retirement Act of 1974, or*

*(ii) any benefit paid under section 3(h), 4(e), or 4(h) of such Act.*

*(3) TIER 1 RAILROAD RETIREMENT BENEFIT.—For purposes of paragraph (1), the term "tier 1 railroad retirement benefit" has the meaning given such term by section 86(d)(4).*

[(r)] *(s)* CROSS REFERENCE—

For limitation on adjustments to basis of annuity contracts sold, see section 1021.

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SEC. 86. SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS.

(a) IN GENERAL.—* * *

* * * * * * *

(d) SOCIAL SECURITY BENEFIT.—

(1) IN GENERAL.—For purposes of this section, the term "social security benefit" means any amount received by the taxpayer by reason of entitlement to—

(A) a monthly benefit under title II of the Social Security Act, or

(B) a tier 1 railroad retirement benefit.

For purposes of the preceding sentence, the amount received by any taxpayer shall be determined as if the Social Security Act did not contain section 203(i) thereof.

(2) ADJUSTMENT FOR REPAYMENTS DURING YEAR.—

(A) IN GENERAL.—For purposes of this section, the amount of social security benefits received during any taxable year shall be reduced by any repayment made by the taxpayer during the taxable year of a social security benefit previously received by the taxpayer (whether or not such benefit was received during the taxable year).

(B) DENIAL OF DEDUCTION.—If (but for this subparagraph) any portion of the repayments referred to in subparagraph (A) would have been allowable as a deduction for the taxable year under section 165, such portion shall be allowable as a deduction only to the extent it exceeds the social security benefits received by the taxpayer during the taxable year (and not repaid during such taxable year).

(3) WORKMEN'S COMPENSATION BENEFITS SUBSTITUTED FOR SOCIAL SECURITY BENEFITS.—For purposes of this section, if, by reason of section 224 of the Social Security Act (or by reason of section 3(a)(1) of the Railroad Retirement Act of 1974), any social security benefit is reduced by reason of the receipt of a benefit under a workmen's compensation act, the term "social security benefit" includes that portion of such benefit received under the workmen's compensation act which equals such reduction.

(4) TIER 1 RAILROAD RETIREMENT BENEFIT.—For purposes of paragraph (1), the term "tier 1 railroad retirement benefit" means a monthly benefit under section 3(a), *3(f)(3),* 4(a), or 4(f) of the Railroad Retirement Act of 1974.

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## PART III—ITEMS SPECIFICALLY EXCLUDED FROM GROSS INCOME

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SEC. 105. AMOUNTS RECEIVED UNDER ACCIDENT AND HEALTH PLANS.

(a) AMOUNTS ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS.—

* * * * * * *

*(i) SICK PAY UNDER RAILROAD UNEMPLOYMENT INSURANCE ACT.—Notwithstanding any other provision of law, gross income includes*

*benefits paid under section 2(a) of the Railroad Unemployment Insurance Act for days of sickness; except to the extent such sickness (as determined in accordance with standards prescribed by the Railroad Retirement Board) is the result of on-the-job injury.*

* * * * * * *

## *Subtitle C—Employment Taxes and Collection of Income Tax at Source*

Chapter 21. Federal insurance contributions act.
Chapter 22. Railroad retirement tax act.
Chapter 23. Federal unemployment tax act.
*Chapter 23A. Railroad Unemployment Repayment Tax*

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## CHAPTER 22—RAILROAD RETIREMENT TAX ACT

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### Subchapter A—Tax on Employees

* * * * * * *

[NOTE: The following amendment to sec. 3201 applies to compensation paid for services rendered after June 30, 1984, and before January 1, 1985.]

**SEC. 3201. RATE OF TAX.**

(a) In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to [2.0] *2.75* percent of so much of the compensation paid in any calendar month to such employee for services rendered by him as is not in excess of an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 for any month.

(b) The rate of tax imposed by subsection (a) shall be increased by the rate of tax imposed with respect to wages by section 3101(a) plus the rate imposed by section 3101(b) of so much of the compensation paid in any calendar month to such employee for services rendered by him as is not in excess of an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 for any month.

[NOTE: The following amendment to sec. 3201 applies to remuneration paid after December 31, 1984.]

[SEC. 3201. RATE OF TAX.

[(a) In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to 2.75 percent of so much of the compensation paid in any calendar month to such employer for services rendered by him as is not in excess of an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 for any month.

[(b) The rate of tax imposed by subsection (a) shall be increased by the rate of the tax imposed with respect to wages by section 3101(a) plus the rate imposed by section 3101(b) of so much of the

compensation paid in any calendar month to such employee for services rendered by him as is not in excess of an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 for any month.]

*SEC. 3201. RATE OF TAX.*

*(a) TIER 1 TAX.—In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to the following percentage of the compensation received during any calendar year by such employee for services rendered by such employee:*

| *In the case of compensation received during:* | *The rate shall be:* |
|---|---|
| *1985* | *7.05* |
| *1986 or 1987* | *7.15* |
| *1988 or 1989* | *7.51* |
| *1990 or thereafter* | *7.65.* |

*(b) TIER 2 TAX.—In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to the following percentage of the compensation received during any calendar year by such employee for services rendered by such employee:*

| *In the case of compensation received during:* | *The rate shall be:* |
|---|---|
| *1985* | *3.50* |
| *1986 or thereafter* | *4.25.* |

*(c) CROSS REFERENCE.—*

*For application of different contribution bases with respect to the taxes imposed by subsections (a) and (b), see section 3231(e)(2).*

SEC. 3202. DEDUCTION OF TAX FROM COMPENSATION.

(a) REQUIREMENT.—The [tax] *taxes* imposed by section 3201 shall be collected by the employer of the taxpayer by deducting the amount of the [tax] *taxes* from the compensation of the employee as and when paid. [If an employee is paid compensation by more than one employer for services rendered during any calendar month and the aggregate of such compensation is in excess of an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 for any month, the tax to be deducted by each employer other than a subordinate unit of a national railway-labor-organization employer from the compensation paid by him with respect to such compensation paid by all such employers which the compensation paid by him to the employee for services rendered during such month bears to the total compensation paid by all such employers to such employee for services rendered during such month; and in the event that the compensation so paid by such employers to the employee for services rendered during such month is less than an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 for any month, each subordinate unit of a national railway-labor-organization employer shall deduct such proportion of any additional tax as the compensation paid by such employer to such employee for services rendered during such month bears to the total compensation paid by all such employers to such employee for services rendered during such month.] An employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053(a) to which paragraph (3) of section 3231(e) is applicable may deduct an

amount equivalent to such [tax] *taxes* with respect to such tips from any compensation of the employee (exclusive of tips) under his control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his employment by such employer is less than $20.

(b) INDEMNIFICATION OF EMPLOYER.—Every employer required under subsection (a) to deduct the tax shall be liable for the payment of such tax and shall not be liable to any person for the amount of any such payment.

(c) SPECIAL RULE FOR TIPS.—

(1) In the case of tips which constitute compensation, subsection (a) shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to section 6053(a), and only to the extent that collection can be made by the employer, at or after the time such statement is so furnished and before the close of the 10th day following the calendar month (or, if paragraph (3) applies, the 30th day following the quarter) in which the tips were deemed paid, by deducting the amount of the tax from such compensation of the employee (excluding tips, but including funds turned over by the employee to the employer pursuant to paragraph (2) as are under control of the employer.

(2) If the [tax] *taxes* imposed by section 3201, with respect to tips which are included in written statements furnished in any month to the employer pursuant to section 6053(a), [exceeds] *exceed* the compensation of the employee (excluding tips) from which the employer is required to collect the [tax] *taxes* under paragraph (1), the employee may furnish to the employer on or before the 10th day of the following month (or, if paragraph (3) applies, on or before the 30th day of the following quarter) an amount of money equal to the amount of the excess.

(3) The Secretary may, under regulations prescribed by him, authorize employers—

(A) to estimate the amount of tips that will be reported by the employee pursuant to section 6053(a) in any quarter of the calendar year,

(B) to determine the amount to be deducted upon each payment of compensation (exclusive of tips) during such quarter as if the tips so estimated constituted actual tips so reported, and

(C) to deduct upon any payment of compensation (other than tips, but including funds turned over by the employee to the employer pursuant to paragraph (2)) to such employee during such quarter (and within 30 days thereafter) such amount as may be necessary to adjust the amount actually deducted upon such compensation of the employee during the quarter to the amount required to be deducted in respect of tips included in written statements furnished to the employer during the quarter.

(4) If the [tax] *taxes* imposed by section 3201 with respect to tips which constitute compensation [exceeds] *exceed* the

portion of such [tax] *taxes* which can be collected by the employer from the compensation of the employee pursuant to paragraph (1) or paragraph (3), such excess shall be paid by the employee.

## Subchapter B—Tax on Employee Representatives

* * * * * * *

[NOTE: The following amendment to sec. 3211 applies to compensation paid for services rendered after June 30, 1984, and before January 1, 1985.]

**SEC. 3211. RATE OF TAX.**

(a) In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to [11.75] *12.75* percent plus the sum of the rates of tax imposed with respect to wages by sections 3101(a), 3101(b), 3111(a), and 3111(b) of so much of the compensation paid in any calendar month to such employee representative for services rendered by him as is not in excess of an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 for any month.

(b) In addition to other taxes, there is hereby imposed on the income of each employee representative a tax at a rate equal to the rate of excise tax imposed on every employer, provided for in section 3221(c), for each man-hour for which compensation is paid to him for services rendered as an employee representative.

[NOTE: The following amendment to sec. 3211 applies to remuneration paid after December 31, 1984.]

[(a) In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to 12.75 percent plus the sum of the rates of tax imposed with respect to wages by sections 3101(a), 3101(b), 3111(a), and 3111(b) of so much of the compensation paid in any calendar month to such employee representative for services rendered by him as is not in excess of an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 for any month.]

*(a) IMPOSITION OF TAXES.—*

*(1) TIER 1 TAX.—In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to the following percentage of the compensation received during any calendar year by such employee representative for services rendered by such employee representative:*

| *In the case of compensation received during:* | *The rate shall be:* |
|---|---|
| *1985* | *14.10* |
| *1986 or 1987* | *14.30* |
| *1988 or 1989* | *15.02* |
| *1990 or thereafter* | *15.30.* |

*(2) TIER 2 TAX.—In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to the following percentage of the compensation received during any calendar year by such employee representatives for services rendered by such employee representative:*

| *In the case of compensation received during:* | *The rate shall be:* |
|---|---|
| *1985* | *13.75* |
| *1986 or thereafter* | *14.75.* |

*(3) CROSS REFERENCE.—*

*For application of different contribution bases with respect to the taxes imposed by paragraphs (1) and (2), see section 3231(e)(2).*

* * * * * * *

## Subchapter C—Tax on Employers

* * * * * * *

[NOTE: The following amendment to sec. 3221 applies to compensation paid for services rendered after June 30, 1984, and before January 1, 1985.]

**SEC 3221. RATE OF TAX.**

(a) In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to [11.75] *12.75* percent of so much of the compensation paid in any calendar month by such employer for services rendered to him as is, with respect to any employee for any calendar month, not in excess of an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 for any month, except that if an employee is paid compensation by more than one employer for services rendered during any calendar month, the tax imposed by this section shall apply to not more than an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 for any month of the aggregate compensation paid to such employee by all such employers for services rendered during such month, and each employer other than a subordinate unit of a national railway-labor-organization employer shall be liable for that proportion of the tax with respect to such comnpensation paid by all such employers which the compensation paid by him to the employee for services rendered during such month bears to the total compensation paid by all such employers to such employee for services rendered during such month; and in the event that the compensation so paid by such employers to the employee for services rendered during such month is less than an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 for any month each subordinate unit of a national railway-labor-organization shall be liable for such proportion of any additional tax as the compensation paid by such employer to such employee for services rendered during such month bears to the total compensation paid by all such employers to such employee for services rendered during such month. Where compensation for services rendered is paid an employee by two or more employers, one of the employers who has knowledge of such joint employment may, by proper notice to the Secretary, and by agreement with such other employer or employers as to settlement of their respective liabilities under this section and section 3202, elect for the tax imposed by section 3201 and this section to apply to all of the compensation

paid by such employer for such month as does not exceed the maximum amount of compensation in respect to which taxes are imposed by such section 3201 and this section; and in such case the liability of such other employer or employers under this section and section 3202 shall be limited to the difference, if any, between the compensation paid by the electing employer and the maximum amount of compensation to which section 3201 and this section apply.

[Note: The following amendment to sec. 3221 applies to remuneration paid after December 31, 1984.]

**SEC. 3221. RATE OF TAX.**

[(a) In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 12.75 percent of so much of the compensation paid in any calendar month by such employer for services rendered to him as is, with respect to any employee for any calendar month, not in excess of an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 for any month, except that if an employee is paid compensation by more than one employer for services rendered during any calendar month, the tax imposed by this section shall apply to not more than an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 for any month of the aggregate compensation paid to such employee by all such employers for services rendered during such month, and each employer other than a subordinate unit of a national railway-labor-organization employer shall be liable for that proportion of the tax with respect to such compensation paid by all such employers which the compensation paid by him to the employee for services rendered during such month bears to the total compensation paid by all such employers to such employee for services rendered during such month; and in the event that the compensation so paid by such employers to the employee for services rendered during such month is less than an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 for any month each subordinate unit of a national railway-labor-organization employer shall be liable for such proportion of any additional tax as the compensation paid by such employer to such employee for services rendered during such month bears to the total compensation paid by all such employers to such employee for services rendered during such month. Where compensation for services rendered in a month is paid an employee by two or more employers, one of the employers who has knowledge of such joint employment may, by proper notice to the Secretary, and by agreement with such other employer or employers as to settlement of their respective liabilities under this section and section 3202, elect for the tax imposed by section 3201 and this section to apply to all of the compensation paid by such employer for such month as does not exceed the maximum amount of compensation in respect to which taxes are imposed by such section 3201 and this section; and in such case the liability of such other employer or employers under this section and section 3202 shall be limited to the difference, if any, between the compensation paid by the electing employer and the maximum

amount of compensation to which section 3201 and this section apply.

[(b) The rate of tax imposed by subsection (a) shall be increased by the rate of tax imposed with respect to wages by section 3111(a) plus the rate imposed by section 3111(b).]

*(a) TIER 1 TAX.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentage of compensation paid during any calendar year by such employer for services rendered to such employer:*

| *In the case of compensation paid during:* | *The rate shall be:* |
|---|---|
| *1985* | *7.05* |
| *1986 or 1987* | *7.15* |
| *1988 or 1989* | *7.51* |
| *1990 or thereafter* | *7.65.* |

*(b) TIER 2 TAX.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentage of compensation paid during any calendar year by such employer for services rendered to such employer:*

| *In the case of compensation paid during:* | *The rate shall be:* |
|---|---|
| *1985* | *13.75* |
| *1986 or thereafter* | *14.75.* |

(c) In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, for each man-hour for which compensation is paid by such employer for services rendered to him during any calendar quarter, at such rate as will make available sufficient funds to meet the obligation to pay supplemental annuities at the level provided under section 3(j) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974 and administrative expenses in connection therewith. For the purpose of this subsection, the Railroad Retirement Board is directed to determine what rate is required for each calendar quarter. The Railroad Retirement Board shall make the determinations provided for not later than fifteen days before each calendar quarter. As soon as practicable after each determination of the rate, as provided in this subsection, the Railroad Retirement Board shall publish a notice in the Federal Register, and shall advise all employers, employee representatives, and the Secretary, of the rate so determined. With respect to daily, weekly, or monthly rates of compensation such tax shall apply to the number of hours comprehended in the rate together with the number of overtime hours for which compensation in addition to the daily, weekly, or monthly rate is paid. With respect to compensation paid on a mileage or piecework basis such tax shall apply to the number of hours constituting the hourly equivalent of the compensation paid.

Each employer of employees whose supplemental annuities are reduced pursuant to section 3(j)(2) of the Railroad Retirement Act of 1937 or section 2(h)(2) of the Railroad Retirement Act of 1974 shall be allowed as a credit against the tax imposed by this subsection an amount equivalent in each month to the aggregate amount of reductions in supplemental annuities accruing in such month to employees of such employer. If the credit so allowed to such an em-

ployer for any month exceeds the tax liability of such employer accruing under this subsection in such month, the excess may be carried forward for credit against taxes accruing in subsequent months but the total credit allowed by this paragraph to an employer shall not exceed the total of the taxes on such employer imposed by this subsection. At the end of each calendar quarter the Railroad Retirement Board shall certify to the Secretary with respect to each such employer the amount of credit accruing to such employer under this paragraph during such quarter and shall notify such employer as to the amount so certified.

(d) Notwithstanding the provisions of subsection (c) of this section, the tax imposed by such subsection (c) shall not apply to an employer with respect to employees who are covered by a supplemental pension plan which is established pursuant to an agreement reached through collective bargaining between the employer and employees. There is hereby imposed on every such employer an excise tax equal to the amount of the supplemental annuity paid to each such employee under section 2(b) of the Railroad Retirement Act of 1974, plus a percentage thereof determined by the Railroad Retirement Board to be sufficient to cover the administrative costs attributable to such payments under section 2(b) of such Act.

*(e) CROSS REFERENCE.—*

*For application of different contributions bases with respect to the taxes imposed by subsections (a) and (b), see section 3231(e)(2).*

## Subchapter D—General Provisions

* * * * * * *

SEC. 3231. DEFINITIONS.

(a) EMPLOYER.—For purposes of this chapter, the term "employer" means any carrier (as defined in subsection (g)), and any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such employer; except that the term "employer" shall not include any street interurban, or suburban electric railway, unless such railway *is an employer as defined in the fourth sentence of this subsection or* is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter, operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Secretary, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls

within the terms of this exception. The term "employer" shall also include railroad associations, traffic associations, tariff bureaus, demurrage bureaus, weighing and inspection bureaus, collection agencies and other associations, bureaus, agencies, or organizations controlled and maintained wholly of principally by two or more employers as hereinbefore defined and engaged in the performance of services in connection with or incidental to railroad transportation; and railway labor organizations, national in scope, which have been or may be organized in accordance with the provisions of the Railway Labor Act, as amended (45 U.S.C., chapter 8), and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitutions and bylaws of such organizations. *The term "employer" shall also include any commuter authority operating commuter service under title V of the Rail Passenger Service Act, if any portion of such service was transferred on January 1, 1983, to such authority from the Consolidated Rail Corporation.* The term "employer" shall not include any company by reason of its being engaged in the mining of coal, the supplying of coal to an employer where delivery is not beyond the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities.

* * * * * * *

(e) COMPENSATION.—For purposes of this chapter—

(1) The term "compensation" means any form of money remuneration paid to an individual for services rendered as an employee to one or more employers. Such term does not include (i) the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of sickness or accident disability or medical or hospitalization expenses in connection with sickness or accident disability, (ii) tips (except as is provided under paragraph (3)), or (iii) an amount paid specifically—either as an advance, as reimbursement or allowance—for traveling or other bona fide and necessary expenses incurred or reasonably expected to be incurred in the business of the employer provided any such payment is identified by the employer either by a separate payment or by specifically indicating the separate amounts where both wages and expense reimbursement or allowance are combined in a single payment. Such term does not include remuneration for service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended, and which is performed to carry out the purpose specified in subparagraph (F) of (J), as the case may be. [Compensation which is paid in one calendar month but which

would be payable in a prior or subsequent taxable month but for the fact that prescribed date of payment would fall on a Saturday, Sunday or legal holiday shall be deemed to have been paid in such prior or subsequent taxable month. Compensation which is earned during the period for which the Secretary shall require a return of taxes under this chapter to be made and which is payable during the calendar month following such period shall be deemed to have been paid during such period only.] For the purpose of determining the amount of taxes under sections 3201 and 3221, compensation earned in the service of a local lodge or division of a railway-labor-organization employer shall be disregarded with respect to any calendar month if the amount thereof is less than $25. Compensation for service as a delegate to a national or international convention of a railway labor organization defined as an "employer" in subsection (a) of this section shall be disregarded for purposes of determining the amount of taxes due pursuant to this chapter if the individual rendering such service has not previously rendered service, other than as such a delegate, which may be included in his "years of service" for purposes of the Railroad Retirement Act.

[(2) A payment made by an employer to an individual through the employer's payroll shall be presumed, in the absence of evidence to the contrary, to be compensation for service rendered by such individual as an employee of the employer in the period with respect to which the payment is made. An employee receiving retroactive wage payments shall be deemed to be paid compensation in the period during which such compensation is earned only upon a written request by such employee, made within six months following the payment, and a showing that such compensation was earned during a period other than the period in which it was paid. An employee shall be deemed to be paid "for time lost" the amount he is paid by an employer with respect to an identifiable period of absence from the active service of the employer, including absence on account of personal injury, and the amount he is paid by the employer for loss of earnings resulting from his displacement to a less remunerative position or occupation. If a payment is made by an employer with respect to a personal injury and includes pay for time lost, the total payment shall be deemed to be paid for time lost unless, at the time of payment, a part of such payment if specifically apportioned to factors other than time lost, in which event only such part of the payment as is not so apportioned shall be deemed to be paid for time lost.]

*(2) APPLICATION OF CONTRIBUTION BASES.—*

*(A) COMPENSATION IN EXCESS OF APPLICABLE BASE EXCLUDED.—*

*(i) IN GENERAL.—The term "compensation" does not include that part of remuneration paid during any calendar year to an individual by an employer after remuneration equal to the applicable base has been paid during such calendar year to such individual by such*

*employer for services rendered as an employee to such employer.*

*(ii) REMUNERATION NOT TREATED AS COMPENSATION EXCLUDED.—There shall not be taken into account under clause (i) remuneration which (without regard to clause (i) is not treated as compensation under this subsection.*

*(B) APPLICABLE BASE.—*

*(i) TIER 1 TAXES.—Except as provided in clause (ii), the term "applicable base" means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.*

*(ii) TIER 2 TAXES, ETC.—For purposes of—*

*(I) the taxes imposed by sections 3201(b), 3211(a)(2), and 3221(b), and*

*(II) computing average monthly compensation under section 3(j) of the Railroad Retirement Act of 1974 (except with respect to annuity amounts determined under subsection (a) or (f)(3) of section 3 of such Act),*

*clause (2) of the first sentence, and the second sentence, of subsection (c) of section 230 of the Social Security Act shall be disregarded.*

*(C) SUCCESSOR EMPLOYERS.—For purposes of this paragraph, the second sentence of section 3121(a)(1) (relating to successor employers) shall apply, except that—*

*(i) the term "services" shall be substituted for "employment" each place it appears,*

*(ii) the term "compensation" shall be substituted for "remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection)" each place it appears, and*

*(iii) the terms "employer", "services", and "compensation" shall have the meanings given such terms by this section.*

(3) Solely for purposes of the [tax] *taxes* imposed by section 3201 and other provisions of this chapter insofar as they relate to such [tax] *taxes,* the term "compensation" also includes cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is less than $20.

(4)(A) For purposes of applying sections [3201(b) and 3221(b) (and so much of section 3211(a) as relates to the rates of the taxes imposed by sections 3101 and 3111)] *3201(a), 3211(a)(1), and 3221(a),* in the case of payments made to an employee or any of his dependents on account of sickness or accident disability, clause (i) of the second sentence of paragraph (1) shall exclude from the term "compensation" only—

(i) payments which are received under a workmen's compensation law, and

(ii) benefits received under the Railroad Retirement Act of 1974.

(B) Notwithstanding any other provision of law, for purposes of the sections specified in subparagraph (A), the term "compensation" shall include benefits paid under section 2(a) of the Railroad Unemployment Insurance Act for days of sickness, except to the extent that such sickness (as determined in accordance with standards prescribed by the Railroad Retirement Board) is the result the on-the-job injury.

(C) Under regulations prescribed by the Secretary, subparagraphs (A) and (B) shall not apply to payments made after the expiration of a 6-month period comparable to the 6-month period described in section 3121(a)(4).

(D) Except as otherwise provided in regulations prescribed by the Secretary, any third party which makes a payment included in compensation solely by reason of subparagraphs (A) or (B) shall be treated for purposes of this chapter as the employer with respect to such compensation.

* * * * * * *

(g) CARRIER.—For purposes of this chapter, the term "carrier" means an express carrier, sleeping car carrier, or rail carrier providing transportation subject to subchapter I of chapter 105 of title 49.

(h) TIPS CONSTITUTING COMPENSATION, TIME DEEMED PAID.—For purposes of this chapter, tips which constitute compensation for purposes of the [tax imposed under] *taxes imposed by* section 3201 shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) or (if no statement including such tips is so furnished) at the time received[; and tips so deemed to be paid in any month shall be deemed paid for services rendered in such month.].

*(i) CONCURRENT EMPLOYMENT BY 2 OR MORE EMPLOYEES.—For purposes of this chapter, if 2 or more related corporations which are employers concurrently employ the same individual and compensate such individual through a common paymaster which is 1 of such corporations, each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual amounts actually disbursed to such individual by another of such corporations.*

* * * * * * *

## *CHAPTER 23A—RAILROAD UNEMPLOYMENT REPAYMENT TAX*

*Sec. 3321. Imposition of tax.*
*Sec. 3322. Taxable period.*
*Sec. 3323. Other definitions.*

***SEC. 3321. IMPOSITION OF TAX.***

*(a) GENERAL RULE.—There is hereby imposed on every rail employer for each taxable period an excise tax, with respect to having individuals in his employ, equal to the applicable percentage of the total rail wages paid by him during the taxable period.*

*(b) TAX ON EMPLOYEE REPRESENTATIVES.—*

*(1) IN GENERAL.—There is hereby imposed on the income of each employee representative a tax equal to the applicable percentage of the rail wages paid to him during the taxable period.*

*(2) DETERMINATION OF WAGES.—The rail wages of an employee representative for purposes of paragraph (1) shall be determined in the same manner and with the same effect as if the employee organization by which such employee representative is employed were a rail employer.*

*(c) RATE OF TAX.—For purposes of this section—*

*(1) FOR TAXABLE PERIOD JULY 1 THROUGH DECEMBER 31, 1986.—The applicable percentage for the taxable period beginning on July 1, 1986, and ending on December 31, 1986, shall be 2.0 percent.*

*(2) SUBSEQUENT TAXABLE PERIODS.—The applicable percentage for any taxable period beginning after 1986 shall be the sum of—*

*(A) 2.0 percent, plus*

*(B) 0.3 percent for each preceding taxable period.*

*In no event shall the applicable percentage exceed 5.0 percent.*

***SEC. 3322. TAXABLE PERIOD.***

*(a) GENERAL RULE.—For purpose of this chapter, except as provided in subsection (b), the term "taxable period" means—*

*(1) the period beginning on July 1, 1986, and ending on December 31, 1986,*

*(2) each calendar year after 1986 and before 1990, and*

*(3) the period beginning on January 1, 1990, and ending on September 30, 1990.*

*(b) EARLIER TERMINATION IF LOANS TO RAIL UNEMPLOYMENT FUND REPAID.—The tax imposed by this chapter shall not apply to any rail wages paid on or after the first January 1 after 1986 as of which there is—*

*(1) no balance of transfers to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act, and*

*(2) no unpaid interest on such transfers.*

***SEC. 3323. OTHER DEFINITIONS.***

*(a) RAIL EMPLOYER.—For purposes of this chapter, the term "rail employer" means any person who is an employer as defined in section 1 of the Railroad Unemployment Insurance Act.*

*(b) RAIL WAGES.—*

*(1) IN GENERAL.—For purposes of this chapter, the term "rail wages" means wages as defined in section 3306(b) with the modification specified in paragraph (2).*

*(2) MODIFICATIONS.—In applying subsection (b) of section 3306 for purposes of paragraph (1)—*

*(A) ONLY RAILROAD EMPLOYMENT TAKEN INTO ACCOUNT.—Such subsection (b) shall be applied—*

*(i) by substituting "rail employment" for "employment" each place it appears, and*

*(ii) by substituting "rail employer" for "employer" each place it appears.*

*(B) WAGE BASE FOR FIRST TAXABLE PERIOD.—In the case of the taxable period beginning on July 1, 1986, and ending*

*on December 31, 1986, such subsection (b) shall be applied by substituting "$3,500" for "$7,000" each place it appears in paragraph (1) thereof.*

*(C) WAGE BASE FOR LAST TAXABLE PERIOD.—In the case of the taxable period beginning on January 1, 1990, and ending on September 30, 1990, such subsection (b) shall be applied by substituting "$5,250" for "$7,000" each place it appears in paragraph (1) thereof.*

*(c) RAIL EMPLOYMENT.—For purposes of this chapter, the term "rail employment" means services performed by an individual as a rail employee or employee representative.*

*(d) RAIL EMPLOYEE AND EMPLOYEE REPRESENTATIVE.—For purposes of this chapter—*

*(1) RAIL EMPLOYEE.—The term "rail employee" means any person who is an employee as defined in section 1 of the Railroad Unemployment Insurance Act.*

*(2) EMPLOYEE REPRESENTATIVE.—The term "employee representative" has the meaning given such term by section 1 of the Railroad Unemployment Insurance Act.*

*(e) CONCURRENT EMPLOYMENT BY 2 OR MORE RAIL EMPLOYERS.—For purposes of this chapter, if 2 or more related corporations which are rail employers concurrently employ the same individual and compensate such individual through a common paymaster which is 1 of such corporations, each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual amounts actually disbursed to such individual by another of such corporations.*

*(f) CERTAIN RULES MADE APPLICABLE.—For purposes of this chapter, rules similar to the rules of sections 3307 and 3308 shall apply.*

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## Subtitle F—Procedure and Administration

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## CHAPTER 61—INFORMATION AND RETURNS

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### Subchapter A—Returns and Records

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#### PART III—INFORMATION RETURNS

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##### Subpart B—Information Concerning Transactions With Other Persons

Sec. 6041. Information at source.
Sec. 6041A. Returns regarding payments of remuneration for services and direct sales.

Sec. 6042. Returns regarding payments of dividends and corporate earnings and profits.
Sec. 6043. Returns regarding, liquidation, dissolution, termination, or contraction.
Sec. 6044. Returns regarding payments of patronage dividends.
Sec. 6045. Returns of brokers.
Sec. 6046. Returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock.
Sec. 6046A. Returns as to interests in foreign partnerships.
Sec. 6047. Information relating to certain trusts and annuity and bond purchase plans.
Sec. 6048. Returns as to certain foreign trusts.
Sec. 6049. Returns regarding payments of interest.
Sec. 6050A. Reporting requirements of certain fishing boat operators.
Sec. 6050B. Returns relating to unemployment compensation.
Sec. 6050C. Information regarding windfall profit tax on domestic crude oil.
Sec. 6050D. Returns relating to energy grants and financing.
Sec. 6050E. State and local income tax refunds.
Sec. 6050F. Returns relating to social security benefits.
Sec. 6050G. Returns relating to certain railroad retirement benefits.

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***SEC. 6050G. RETURNS RELATING TO CERTAIN RAILROAD RETIREMENT BENEFITS.***

*(a) IN GENERAL.—The Railroad Retirement Board shall make a return, according to the forms and regulations prescribed by the Secretary, setting forth—*

*(1) the aggregate amount of benefits paid under the Railroad Retirement Act of 1974 (other than tier 1 railroad retirement benefits, as defined in section 86(d)(4)) to any individual during any calendar year,*

*(2) the employee contributions (to the extent not previously taken into account under section 72(d)(1)) which are treated as having been paid for purposes of section 72(r),*

*(3) the name and address of such individual, and*

*(4) such other information as the Secretary may require.*

*(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—The Railroad Retirement Board shall furnish to each individual whose name is set forth in the return under subsection (a) a written statement showing—*

*(1) the aggregate amount of payments to such individual, and of employee contributions with respect thereto, as shown on such return, and*

*(2) such other information as the Secretary may require.*

*The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.*

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## CHAPTER 62—TIME AND PLACE FOR PAYING TAX

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## Subchapter A—Place and Due Date for Payment of Tax

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SEC. 6157. PAYMENT OF FEDERAL UNEMPLOYMENT TAX ON QUARTERLY OR OTHER TIME PERIOD BASIS.

(a) GENERAL RULE.—* * *

* * * * * * *

*(d) QUARTERLY PAYMENT OF RAILROAD UNEMPLOYMENT REPAYMENT TAX.—*

*(1) IN GENERAL.—Every rail employer shall compute the tax imposed by section 3321 for each calendar quarter in any taxable period in the manner provided in paragraph (2). The tax so computed shall, except as otherwise provided in paragraph (3), be paid in such manner and at such time as may be provided in regulations prescribed by the Secretary.*

*(2) COMPUTATION OF TAX.—The tax for any calendar quarter shall be computed by multiplying the aggregate amount of rail wages paid in such calendar quarter by the applicable percentage determined under section 3321(c).*

*(3) EXCEPTIONS.—No payment shall be required under this subsection—*

*(A) for the last calendar quarter in any taxable period, and*

*(B) for any calendar quarter if the tax under section 3321 for such quarter, plus any unpaid amounts for prior calendar quarters in the taxable period, does not exceed $100.*

*(4) DEFINITIONS.—For purposes of this subsection, the terms "taxable period", "rail employer", and "rail wages" have the same respective meanings as when used in chapter 23A.*

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## CHAPTER 63—ASSESSMENT

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## Subchapter A—In General

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SEC. 6201. ASSESSMENT AUTHORITY.

(a) AUTHORITY OF SECRETARY.—* * *

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(b) AMOUNT NOT TO BE ASSESSED.—

(1) ESTIMATED INCOME TAX.—No unpaid amount of estimated tax under section 6153 or 6154 shall be assessed.

(2) FEDERAL UNEMPLOYMENT TAX.—No unpaid amount of Federal unemployment tax *or tax imposed by section 3321* for any calendar quarter or other period of a calendar year, computed as provided in section 6157, shall be assessed.

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# CHAPTER 64—COLLECTION

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## Subchapter B—Receipt of Payment

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**SEC. 6317. PAYMENTS OF FEDERAL UNEMPLOYMENT TAX FOR CALENDAR QUARTER.**

Payment of Federal unemployment tax *or tax imposed by section 3321* for a calendar quarter or other period within a calendar year pursuant to section 6157 shall be considered payment on account of the tax imposed by chapter 23 *or 23A, as the case may be,* of such calendar year.

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# CHAPTER 66—LIMITATIONS

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## Subchapter B—Limitations on Credit or Refund

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**SEC. 6513. TIME RETURN DEEMED FILED AND TAX CONSIDERED PAID.**

(a) EARLY RETURN OR ADVANCE PAYMENT OF TAX.—For purposes of section 6511, any return filed before the last day prescribed for the filing thereof shall be considered as filed on such last day. For purposes of section 6511(b)(2) and (c) and section 6512, payment of any portion of the tax made before the last day prescribed for the payment of the tax shall be considered made on such last day. For purposes of this subsection, the last day prescribed for filing the return or paying the tax shall be determined without regard to any extension of time granted the taxpayer and without regard to any election to pay the tax in installments.

* * * * * * *

(e) PAYMENTS OF FEDERAL UNEMPLOYMENT TAX.—Notwithstanding subsection (a), for purposes of section 6511 any payment of tax imposed by chapter 23 which, pursuant to section 6157, is made for a calendar quarter or other period within a calendar year shall, if made before the last day prescribed for filing the return for the calendar year (determined without regard to any extension of time for filing), be considered made on such last day. *Notwithstanding subsection (a), for purposes of section 6511, any payment of tax imposed by chapter 23A which, pursuant to section 6157, is made for a calendar quarter within a taxable period shall, if made before the last day prescribed for filing the return for the taxable period (determined without regard to any extension of time for filing), be considered made on such last day.*

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# CHAPTER 67—INTEREST

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## Subchapter A—Interest on Underpayments

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SEC. 6601. INTEREST ON UNDERPAYMENT, NONPAYMENT, OR EXTENSIONS OF TIME FOR PAYMENT, OF TAX.

(a) GENERAL RULE.—* * *

* * * * * * *

(i) EXCEPTION AS TO FEDERAL UNEMPLOYMENT TAX.—This section shall not apply to any failure to make a payment of tax imposed by section 3301 *or 3321* for a calendar quarter or other period within a taxable year required under authority of section 6157.

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[NOTE: The following amendment to sec. 230 of the Social Security Act applies to compensation paid for services rendered after June 30, 1984, and before January 1, 1985.]

SECTION 230 OF THE SOCIAL SECURITY ACT

ADJUSTMENT OF THE CONTRIBUTION AND BENEFIT BASE

SEC. 230 (a) * * *

* * * * * * *

(c) For purposes of this section, and for purposes of determining wages and self-employment income under sections 209, 211, 213, and 215 of this Act and sections 1402, 3121, 3122, 3125, 6413, and 6654 of the Internal Revenue Code of 1954, (1) the "contribution and benefit base" with respect to remuneration paid in (and taxable years beginning in) any calendar year after 1973 and prior to the calendar year with the June of which the first increase in benefits pursuant to section 215(i) of this Act becomes effective shall be $13,200 or (if applicable) such other amount as may be specified in a law enacted subsequent to the law which added this section, and (2) the "contribution and benefit base" with respect to remuneration paid (and taxable years beginning)—

(A) in 1978 shall be $17,700,
(B) in 1979 shall be $22,900,
(C) in 1980 shall be $25,900, and
(D) in 1981 shall be $29,700.

For purposes of determining under subsection (b) the "contribution and benefit base" with respect to remuneration paid (and taxable years beginning) in 1982 and subsequent years, the dollar amounts specified in clause (2) of the preceding sentence shall be considered to have resulted from the application of such subsection (b) and to be the amount determined (with respect to the years involved) under that subsection. For purposes of determining employee and employer tax liability under sections 3201(a) and 3221(a) of the In-

ternal Revenue Code of 1954, for purposes of determining the portion of the employee representative tax liability under section 3211(a) of such Code which results from the application of the [11.75] *12.75* percent rate specified therein, and for purposes of computing average monthly compensation under section 3(j) of the Railroad Retirement Act of 1974, except with respect to annuity amounts determined under section 3(a) or (3)(f)(3) of such Act, clause (2) and the preceding sentence of this section shall be disregarded.

[NOTE: The following amendment to sec. 230 applies to remuneration paid after December 31, 1984.]

(c) For purposes of this section, and for purposes of determining wages and self-employment income under sections 209, 211, 213, and 215 of this Act and sections 1402, 3121, 3122, 3125, 6413, and 6654 of the Internal Revenue Code of 1954, (1) the "contribution and benefit base" with respect to remuneration paid in (and taxable years beginning in) any calendar year after 1973 and prior to the calendar year with the June of which the first increase in benefits pursuant to section 215(i) of this Act becomes effective shall be $13,200 or (if applicable) such other amount as may be specified in a law enacted subsequent to the law which added this section, and (2) the "contribution and benefit base" with repect to remuneration paid (and taxable years beginning)—

(A) in 1978 shall be $17,700,
(B) in 1979 shall be $22,900,
(C) in 1980 shall be $25,900 and
(D) in 1981 shall be $29,700.

For purposes of determining under subsection (b) the "contribution and benefit base" with respect to remuneration paid (and taxable years beginning) in 1982 and subsequent years, the dollar amounts specified in clause (2) of the preceding sentence shall be considered to have resulted from the application of such subsection (b) and to be the amount determined (with respect to the years involved) under that subsection. [For purposes of determining employee and employer tax liability under sections 3201(a) and 3221(a) of the Internal Revenue Code of 1954, for purposes of determining the portion of the employee representative tax liability under section 3211(a) of such Code which results from the application of the 12.75 percent rate specified therein, and for purposes of computing average monthly compensation under section 3(j) of the Railroad Retirement Act of 1974, except with respect to annuity amounts determined under section 3(a) or (3)(f)(3) of such Act, clause (2) and the preceding sentence of this subsection shall be disregarded.]

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## RAILROAD UNEMPLOYMENT INSURANCE ACT

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### DEFINITIONS

SECTION 1. For the purposes of this Act, except when used in amending the provisions of other Acts—

(a) The term "employer" means any carrier (as defined in subsection (b) of this section), and any company which is directly or indi-

rectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad or the receipt, delivery, elevation, transfer in transit, refrigeration, or icing, storage, or handling or property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such employer: *Provided, however,* That the term "employer" shall not include any street, interurban, or suburban electric railway, unless such railway *is an employer as defined in the fourth sentence of this subsection or* is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation how or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Board, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this proviso. The term "employer" shall also include railroad associations, traffic associations, tariff bureaus, demurrage bureaus, weighing and inspection bureaus, collection agencies, and other associations, bureaus, agencies, or organizations controlled and maintained wholly or principally by two or more employers as hereinbefore defined and engaged in the performance of services in connection with or incidental to railroad transportation; and railway labor organizations, national in scope, which have been or may be organized in accordance with the provisions of the Railway Labor Act, and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitution and by-laws of such organizations. *The term "employer" shall also include any commuter authority operating commuter service under title V of the Rail Passenger Service Act, if any portion of such service was transferred on January 1, 1983, to such authority from the Consolidated Rail Corporation.* The term "employer" shall not include any company by reason of its being engaged in the mining of coal, the supplying of coal to an employer where delivery is not beyond the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities.

* * * * * * *

(i) The term "compensation" means any form of money remuneration, including pay for time lost but excluding tips, paid for services rendered as an employee to one or more employers, or as an employee representative: *Provided, however,* That in computing the compensation paid to any employee, no part of any month's compensation in excess of $300 for any month before July 1, 1954, or in excess of $350 for any month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, or in excess of $400 for any month after the month in which this Act was so amended *and before January 1984, or in excess of $600 for any month after 1983,* shall be recognized.

*Solely for the purpose of determining the compensation received by an employee in a base year, the term "compensation" shall include any separation allowance or subsistence allowance paid under any benefit schedule provided under section 701 of title VII of the Regional Rail Reorganization Act of 1973 and any termination allowance paid under section 702 of that Act. The total amount of any subsistence allowance payable under a benefit schedule provided pursuant to section 701 of the Regional Rail Reorganization Act of 1973 shall be considered as being compensation in the month in which the employee first timely filed a claim for such an allowance.* Such term does not include remuneration for service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended, and which is performed to carry out the purpose specified in subparagraph (F) or (J), as the case may be. A payment made by an employer to an individual through the employer's payroll shall be presumed, in the absence of evidence to the contrary, to be compensation for service rendered by such individual as an employee of the employer in the period with respect to which the payment is made. An employee shall be deemed to be paid, "for time lost" the amount he is paid by an employer with respect to an identifiable period of absence from the active service of the employer, including absence on account of personal injury, and the amount he is paid by the employer for loss of earnings resulting from his displacement to a less remunerative position or occupation. If a payment is made by an employer with respect to a personal injury and includes pay for time lost, the total payment shall be deemed to be paid for time lost unless, at the time of payment, a part of such payment is specifically apportioned to factors other than time lost, in which event only such part of the payment as is not so apportioned shall be deemed to be paid for time lost. Compensation earned in any calendar month before 1947 shall be deemed paid in such month regardless of whether or when payment will have been in fact made, and compensation earned in any calendar year after 1946 but paid after the end of such calendar year shall be deemed to be compensation paid in the calendar year in which it will have been earned if it is so reported by the employer before February 1 of the next succeeding calendar year or, if the employee establishes, subject to the provisions of section 6 of this Act, the period during which such compensation will have been earned.

(j) The term "remuneration" mean pay for services for hire, including pay for time lost, and tips, but pay for time lost shall be deemed earned on the day on which such time is lost. The term "remuneration" includes also earned income other than for services for hire if the accrual thereof in whole or in part is ascertainable with respect to a particular day or particular days. The term "remuneration" does not include [(i) the voluntary payment by another, without deduction from the pay of an employee, of any tax or contribution now or hereafter imposed with respect to the remuneration of such employee, or (ii)] any money payments received pursuant to any nongovernmental plan for unemployment insurance, maternity insurance, or sickness insurance.

(k) Subject to the provisions of section 4 of this Act, (1) a day of unemployment, with respect to any employee, means a calendar day on which he is able to work and is available for work and with respect to which (i) no remuneration is payable or accrues to him and (ii) he has, in accordance with such regulations as the Board may prescribe, registered at an employment office; (2) a "day of sickness", with respect to any employee, means a calendar day on which because of any physical, mental, psychological, or nervous injury, illness, sickness, or disease he is not able to work or with respect to a female employee, a calendar day on which, because of pregnancy, miscarriage, or the birth of a child, (i) she is unable to work or (ii) working would be injurious to her health, and with respect to which (i) no remuneration is payable or accrues to him, and (ii) in accordance with such regulations as the Board may prescribe, a statement of sickness is filed within such reasonable period, not in excess of ten days, as the Board may prescribe. *Provided, however,* That "subsidiary remuneration", as hereinafter defined in this subsection, shall not be considered remuneration for the purpose of this subsection except with respect to an employee whose base-year compensation, exclusive of earnings from the position or occupation in which he earned such subsidiary remuneration, is less than [$1,000] *$1,500: Provided further,* That remuneration for a working day which includes a part of each of two consecutive calendar days shall be deemed to have been earned on the first of such two days, and any individual who takes work for such working day shall not by reason thereof be deemed not available for work on the second of such calendar days: *Provided further,* That any calendar day on which no remuneration is payable to or accrues to an employee solely because of the application to him of mileage or work restrictions agreed upon in schedule agreements between employers and employees or solely because he is standing by for or laying over between regularly assigned trips or tours of duty shall not be considered either a day of unemployment or a day of sickness.

For the purpose of this subsection, the term "subsidiary remuneration" means, with respect to any employee, remuneration not in excess of an average of $10 a day for the period with respect to which such remuneration is payable or accrues, if the work for which the remuneration is derived (i) requires substantially less than full time as determined by generally prevailing standards, and (ii) is susceptible of performance at such times and under such circumstances as not to be inconsistent with the holding of normal full-time employment in another occupation.

* * * * * * *

BENEFITS

SEC. 2. (a) Benefits shall be payable to any qualified employee for each day of unemployment in excess of four during any registration period: [*Provided, however,* That notwithstanding the provisions of section 1(h) of this Act, in any case in which the Board finds that his unemployment was due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which he was last employed, other than a strike subject to the dis-

qualification in section 4(a-2)(iii), none of the first seven days of unemployment due to such stoppage of work shall be included in any registration period; and subject to the registration provisions of section 1(h), so many of the ensuing seven consecutive calendar days during which his unemployment continues to be caused by such stoppage of work shall constitute a registration period, during which benefits shall be payable for each day of unemployment.] *Provided, however,* That in any case in which the Board finds that his unemployment was due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which he was last employed, no benefits shall be payable for the first fourteen days of unemployment due to such stoppage of work. Benefits shall be payable to any qualified employee for each day of sickness after the fourth consecutive day of sickness in a period of continuing sickness, but excluding four days of sickness in any registration period. A period of continuing sickness means (i) a period of consecutive days of sickness, whether from one or more causes, or (ii) a period of successive days of sickness due to a single cause without interruption of more than ninety consecutive days which are not days of sickness.

The daily benefit rate with respect to any such employee for such day of unemployment or sickness shall be in an amount equal to 60 per centum of the daily rate of compensation for the employee's last employment in which he engaged for an employer in the base year, but not less than $12.70: *Provided, however,* That for registration periods beginning after June 30, 1975, but before July 1, 1976, such amount shall not exceed $24 per day of such unemployment or sickness and that for registration periods beginning after June 30, 1976, such amount shall not exceed $25 per day of such unemployment or sickness. The daily rate of compensation referred to in this paragraph shall be determined by the Board on the basis of information furnished to the Board by the employee, his employer or both.

In computing benefits to be paid, days of unemployement shall not be combined with days of sickness in the same registration period.

QUALIFYING CONDITION

SEC. 3. An employe shall be a "qualified employee" if the Board finds that his compensation will have been not less than [$1,000] *$1,500* with respect to the base year, and, if such employee has had no compensation prior to such year, that he will have had compensation with respect to each of not less than five months in such year.

DISQUALIFYING CONDITIONS

SEC. 4. (a-1) There shall not be considered as a day of unemployment or as a day of sickness, with respect to any employee—

(i) any of the seventy-five days beginning with the first day of any registration period with respect to which the Board finds that he knowingly made or aided in making or caused to be made any false or fraudulent statement or claim for the purpose of causing benefits to be paid;

(ii) any day in any period with respect to which the Board finds that he is receiving or will have received annuity payments under the Railroad Retirement Act of 1974, or insurance benefits under the title II of the Social Security Act, or unemployment, maternity, or sickness benefits under an unemployment, maternity, or sickness compensation law other than this Act, or any other social insurance payments under any law: *Provided,* That if an employee receives or is held entitled to receive any such payments, other than unemployment, maternity, or sickness payments, with respect to any period which include days of unemployment or sickness in a registration period, after benefits under this Act for such registration period will have been paid, the amount by which such benefits under this Act will have been increased by including such days as days of unemployment or as days of sickness shall be recoverable by the Board: *Provided further,* That, if that part of any such payment or payments, other than unemployment, maternity, or sickness payments, which is apportionable to such days of unemployment or days of sickness is less in amount than the benefits under this Act which, but for this paragraph would be payable and not recoverable with respect to such days of unemployment or days of sickness, the preceding provisions of this paragraph shall not apply but such benefits under this Act of such days of unemployment or days of sickness shall be diminished or recoverable in the amount of such part of such other payment or payments;

(iii) if he is paid a separation allowance, any of the days in the period beginning with the day following his separation from service and continuing for that number of consecutive fourteen-day periods which is equal, or most nearly equal, to the amount of the separation allowance divided (i) by ten times his last daily rate of compensation prior to his separation if he normally works five days a week, (ii) by twelve times such rate if he normally works six days a week, and (iii) by fourteen times such rate if he normally works seven days a week;

(a-2) There shall not be considered as a day of unemployment with respect to any employee—

(i)(A) subject to the provisions of subdivision (B) hereof, any of the days in the period beginning with the day with respect of which the Board finds that he left work voluntarily, and continuing until he has been paid compensation of not less than [$1,000] *$1,500* with respect to time after the beginning of such period;

(B) if the Board finds that he left work voluntarily with good cause, the provisions of subdivision (A) shall not apply, with respect to him, to any day in a registration period if such period does not include any day which is in a period for which he could receive benfits under an unemployment compensation law other than this Act, and he so certifies. Such certification shall, in the absence of evidence to the contrary, be accepted subject to the penalty provisions of section 9(a) of this Act;

(ii) any of the thirty days beginning with the day with respect to which that Board finds that he failed, without good cause, to accept suitable work available on such day and of-

fered to him, or to comply with instructions from the Board requiring him to apply for suitable work or to report, in person or by mail as the Board may require, to an employment office;

(iii) Subject to the provisions of subsection (b) of this section, any day with respect to which the Board finds that his unemployment was due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which he was last employed, and the Board finds that such strike was commenced in violation of the provisions of the Railway Labor Act or in violation of the established rules and practices of a bona fide labor organization of which he was a member.

* * * * * * *

CONTRIBUTION

[SEC. 8. (a) Every employer shall pay a contribution, with respect to having employees in his service, equal to the percentage determined as set forth below of so much of the compensation as is not in excess of $300 for any calendar month paid by him to any employee for services rendered to him after June 30, 1939, and before July 1, 1954, and is not in excess of $350 for any calendar month paid by him to any employee for services rendered to him after June 30, 1954, and before June 1, 1959, and is not in excess of $400 for any calendar month paid by him to any employee for services rendered to him after May 31, 1959: *Provided, however,* That if compensation is paid to an employee by more than one employer with respect to any such calendar month, the contributions required by this subsection shall apply to not more than $300 for any month before July 1, 1954, and to not more than $350 for any month after June 30, 1954, and before June 1, 1959, and to not more than $400 for any month after May 31, 1959, the aggregate compensation paid to said employee by all said employers with respect to such calendar month, and each employer other than a subordinate unit of a national railway-labor-organization employer shall be liable for that proportion of the contribution with respect to such compensation paid by all such employers which the compensation paid by him after December 31, 1946, to the employee for services during any calendar month after 1946 bears to the total compensation paid by all such employers after December 31, 1946, to such employee for services rendered during such month; and in the event that the compensation so paid by such employers to the employee for services rendered during such month is less than $300 if such month is before July 1, 1954, or less than $350 if such month is after June 30, 1954, and before June 1, 1959, or less than $400 if such month is after May 31, 1959, each subordinate unit of a national railway-labor-organization employer shall be liable for such proportion of any additional contribution as the compensation paid by such employer after December 31, 1946, to such employee for services rendered during such month bears to the total compensation paid by all such employers after December 31, 1946, to such employee for services rendered during such month:

[1. With respect to compensation paid prior to January 1, 1948, the rate shall be 3 per centum;

[2. With respect to compensation paid after the month in which this Act was amended in 1959, the rate shall be as follows:]

*SEC. 8. (a) Every employer shall pay a contribution, with respect to having employees in his service, equal to the percentage determined as set forth below of so much of the compensation as is not in excess of $600 for any calendar month paid by him to any employee for any services rendered to him. If compensation is paid to an employee by more than one employer with respect to any such calendar month, the contributions required by this subsection shall not apply to more than $600 of the aggregate compensation paid to such employee by all such employers with respect to such calendar month, and each employer (other than a subordinate unit of a national railway-labor-organization employer) shall be liable for that portion of the contribution with respect to such compensation paid by all such employers which the compensation paid by him to such employee for services rendered during such month bears to the total compensation paid by all such employers to such employee for services rendered during such month. In the event that the compensation so paid by such employers to the employee for services rendered during such month is less than $600, each subordinate unit of a national railway-labor-organization employer shall be liable for such portion of any additional contribution as the compensation paid by such employer to such employee for services rendered during such month bears to the total compensation paid by all such employers to such employee for services rendered during such month:*

| If the balance to the credit of the railroad unemployment insurance account as of the close of business on September 30 of any year, as determined by the Board, is: | The rate with respect to compensation paid during the next succeeding calendar year shall be (percent): |
|---|---|
| $300,000,000 or more | 0.5 |
| $200,000,000 or more but less than $300,000,000 | 4.0 |
| $100,000,000 or more but less than $200,000,000 | 5.5 |
| $50,000,000 or more but less than $100,000,000 | 7.0 |
| Less than $50,000,000 | 8.0 |

As soon as practicable following the enactment of this Act, the Board shall determine and proclaim the balance to the credit of the account as of the close of business on September 30, 1947, and on or before December 31 of 1948 and of each succeeding year, the Board shall determine and proclaim the balance to the credit of the account as of the close of business on September 30, of such year; and in determining such balance as of September 30 of any year, the balance to the credit of the railroad unemployment insurance administration fund as of the close of business on such date shall be deemed to be a part of the balance of the credit of such account.

(b) Each employee representative shall pay a contribution with respect to so much of the compensation paid to him for services performed as an employee representative during any month [after December 1975] as is not, for any such calendar month, in excess of [$400] *$600,* as the rate applicable to employers in accordance with subsection (a) of this section. The compensation of an employee representative and the contribution with respect thereto shall be determined in the same manner and with the same effect as if the

employee organization by which such employee representative is employed were an employer as defined in this Act.

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RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT

SEC. 10. (a) * * *

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(d) Whenever the Board finds at any time that the balance in the railroad unemployment insurance account will be insufficient to pay the benefits and refunds which it estimates are due, or will become due, under this Act, it shall request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the railroad unemployment insurance account such moneys as the Board estimates would be necessary for the payment of such benefits and refunds, and the Secretary shall make such transfer. Whenever the Board finds that the balance in the railroad unemployment insurance account, without regard to the amounts transferred pursuant to the next preceding sentence, is sufficient to pay such benefits and refunds, it shall request the Secretary of the Treasury to retransfer from the railroad unemployment insurance account to the credit of the Railroad Retirement Account such moneys as in its judgment are not needed for the payment of such benefits and refunds, plus interest at a rate for each fiscal year equal to the average rate of interest borne by all special obligations held by the Railroad Retirement Account on the last day of the preceding fiscal year, rounded to the nearest multiple of one-eighth of 1 per centum, and the Secretary shall make such retransfer. In determining the balance in the railroad unemployment insurance account as of September 30 of any year pursuant to section 8(a) of this Act, any moneys transferred from the Railroad Retirement Account to the credit of the railroad unemployment insurance account which have not been retransferred as of such date from the latter account to the credit of the former, plus the interest accrued thereon to that date, shall be disregarded. *No transfer shall be made under this subsection from the Railroad Retirement Account after September 30, 1985, and no such transfer shall be made on or before September 30, 1985, for purposes of paying benefits and refunds due after such date.*

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## XI. SUPPLEMENTAL VIEWS OF HON. HAROLD FORD

I support the steps that the Committee on Ways and Means has taken to improve the solvency of the railroad pension system and the railroad unemployment compensation system.

Our primary goal in developing amendments to this bill was to assure a sound pension system for both present and future retirees of the railroad industry. We have accomplished that goal, not only through increased industry contributions to the pension system but also by making needed changes in the rail unemployment system that will reduce borrowing from pension funds to pay unemployment benefits.

When the bill was initially referred to the Committee on Ways and Means, there was great concern that the Federal government, and consequently the American taxpayer, was being asked to shoulder an unfair burden, the financing of a pension and unemployment system of a single industry. This was a legitimate concern, not only of taxpayers but also of other industries that compete with the railroad industry. I believe that the action taken by the Committee has addressed those concerns and am confident that in its consideration of future tax legislation the goals of tax fairness and the preservation of competitive equity will continue to be of utmost importance.

HAROLD FORD.

## XII. SUPPLEMENTAL VIEWS OF HONS. BARBER B. CONABLE, JR., BILL GRADISON, BILL ARCHER, W. HENSON MOORE, GUY VANDER JAGT, CARROLL A. CAMPBELL, JR., BILL FRENZEL, WILLIAM M. THOMAS, JAMES G. MARTIN

We support the provisions added by the Committee to H.R. 1646. They will result in a significant improvement of the soundness of both the Railroad Retirement System and the Railroad Unemployment Compensation System.

There is one item, however, which we had hoped would be added to the bill.

Specifically, we preferred to have this bill incorporate a provision which would have repaid the debt which the Railroad Unemployment Compensation Fund owes to the Railroad Retirement System by a combination of tax increases and benefit reductions. Although an extension of the repayment tax past the date of 1990 would help to reduce and terminate this debt, a more equitable combination of benefit reductions and tax increases will be needed. We regret that our Committee does not have jurisdiction of the benefit component of the Railroad Unemployment System and, therefore, could not review or modify those provisions in this Bill.

In the Bill as reported by the Committee, the tax would apply only between July 1, 1986, and September 30, 1990. Under the most optimistic employment assumptions provided by the Railroad Retirement Board, the debt that will exist upon the termination of the tax has been estimated by the Office of Management and Budget at approximately $1.2 billion. And this would grow to $1.9 billion by September 30, 2000.

Extending the termination date of this repayment tax would have been consistent with the requirement of the Bill that the Railroad Unemployment Compensation Committee provide a method of repaying all loans from the Railroad Retirement Account by the end of the year 2000. We believe imposing the tax for a longer period of time would have helped to attain this goal. It also would have provided a significant incentive for all parties involved to review, in a serious manner, the possibility of transferring the existing Railroad Unemployment Compensation System into the general state unemployment system, which applies to most other occupations. It is our desire to see the Railroad Unemployment Compensation Committee issue a report that includes a fair combination of benefit reductions and tax increases that would terminate the debt by the year 2000 and insure the long-term soundness of the Railroad Unemployment Compensation System. We would like to achieve this result through both benefit and tax changes so as not to impose an unfair burden on either the Railroad industry or its employees.

Notwithstanding our concern on the points stated, we are most encouraged by the commitment expressed by the Chairman of the Subcommittee on Public Assistance and Unemployment Compensation to take prompt action to insure that a repayment program is enacted soon after the Railroad Unemployment Compensation Committee makes its report.

BARBER B. CONABLE, Jr.
BILL ARCHER.
GUY VANDER JAGT.
BILL FRENZEL.
JIM MARTIN.
BILL GRADISON.
W. HENSON MOORE.
CARROLL A. CAMPBELL, Jr.
WILLIAM M. THOMAS.

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